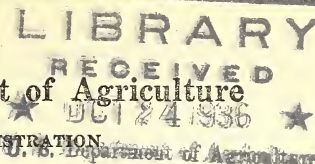


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United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION



NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

25376-25425

[Approved by the Acting Secretary of Agriculture, Washington, D. C., August 12, 1936]

25376. Misbranding of Essence of Mistol. U. S. v. 66 Bottles of Essence of Mistol. Consent decree of condemnation, forfeiture, and destruction. (F. & D. no. 29868. Sample no. 26612-A.)

The alcoholic content of this article was not declared.

On February 28, 1933, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 66 bottles of Essence of Mistol at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about October 28, 1932, by Stanco Distributors, Inc., from Newark, N. J., to Baltimore, Md., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Bottle) "Essence of Mistol."

Analysis showed that the article consisted essentially of volatile oils including menthol, eucalyptol, and camphor, isopropyl alcohol, and water.

The article was alleged to be misbranded in that the label on the carton failed to bear a statement of the quantity or proportion of the isopropyl alcohol contained in the preparation.

On February 26, 1936, a consent decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25377. Adulteration and misbranding of Liquid Medicine in Bulk. U. S. v. Harry Gross and Austin E. Dolan, trading as Dolan Drug & Chemical Co. Plea of guilty by Harry Gross. Plea of nolo contendere by Austin E. Dolan. Gross fined \$2, and Dolan fined \$20. (F. & D. no. 28172. I. S. no. 037450.)

The label of this article erroneously represented that it was of pharmacopoeial standard. It also fell below the professed standard under which it was sold, was an imitation of another article, and its label failed to bear a statement of its alcoholic content.

On February 14, 1933, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court, an information against Harry Gross and Austin E. Dolan, trading as the Dolan Drug & Chemical Co., Boston, Mass., alleging shipment by them, in violation of the Food and Drugs Act, on or about February 15, 1930, from Boston, Mass., to Wichita, Kans., of a quantity of a drug described as Liquid Medicine in Bulk, which was adulterated and misbranded. The article was labeled in part: (Barrels) "Liquid Medicine in Bulk. ICC-10."

Analysis of the article showed it to be a mixture of substances including phenols, rosin, and alcohol (78.82 percent).

The article was alleged to be adulterated (a) in that it was sold under a name recognized in the United States Pharmacopoeia, and differed from the standard of strength, quality, and purity determined by the test laid down in said pharmacopoeia in that it contained phenols and rosin, and the strength, quality, and purity of said article was not declared on the container thereof; and (b) in that its strength and purity fell below the professed standard and quality under which it was sold, in that said article was represented to be fluidextract of ginger, U. S. P., but was not, and was a product composed in part of phenols and rosin.

The article was alleged to be misbranded (a) in that it was composed in part of phenols and rosin prepared in imitation of fluidextract of ginger, U. S. P., and was offered for sale under the name of another article, to wit, fluidextract of ginger, U. S. P.; and (b) in that the article contained alcohol and the label failed to bear a statement of the quantity or proportion thereof in the article.

On August 19, 1935, Dolan, who had entered a plea of nolo contendere, was fined \$20. On October 1, 1935, Gross, who had entered a plea of guilty, was fined \$2.

M. L. WILSON, *Acting Secretary of Agriculture.*

25378. Misbranding of Feminex Tablets. U. S. v. Drug Store Products, Inc., and James Dawson Spurrier. Pleas of nolo contendere. Fines totaling \$20 and costs. (F. & D. no. 32098. Sample no. 23412-A.)

Unwarranted curative and therapeutic claims were made for this article and its label bore erroneous statements.

On March 27, 1935, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Drug Store Products, Inc., Cleveland, Ohio, and James Dawson Spurrier, its president and treasurer, alleging shipment by them, in violation of the Food and Drugs Act as amended, on or about April 29, 1933, from Cleveland, Ohio, to San Francisco, Calif., of quantities of Feminex Tablets which were misbranded. The article was labeled in part: (Carton and bottle) "Feminex Tablets For Pain * * * Drug Store Products, Inc. Toledo, Ohio"; (box) "Feminex Is Recommended For * * * Periodic Pain * * * Backache"; (circular) Relieves Pain * * *."

Analysis showed that the article consisted of tablets containing, in each: Acetphenetidin (a derivative of acetanilid, 2.4 grains), acetylsalicylic acid (2.3 grains), caffeine, phenolphthalein, and starch.

The article was alleged to be misbranded (a) in that the label of the bottle and the carton bore false and fraudulent statements that the article was effective, among other things, as a remedy for pain and as a treatment for backache and periodic pain without bad after effects on the heart or stomach in women and girls; effective as a treatment for neuritis in women and girls; effective as a treatment for pains that discomfort women, such as backache and periodic pain; and (b) in that the following statements on the carton and the bottle label were false and misleading, to wit, (carton) "Acts * * * with no bad after effects" and "Safe", (bottle label) "Acts * * * with no bad after effects" and "Feminex Tablets give * * * safe relief", in that the article could not be taken safely with no bad after effects; (c) in that the article contained acetphenetidin (a derivative of acetanilid) and the package failed to bear upon its label a statement of the quantity or proportion of acetphenetidin contained in the article and a plain and conspicuous statement that acetphenetidin was a derivative of acetanilid; (d) in that a circular enclosed in the package contained false and fraudulent statements that the article was effective, among other things, as a treatment, remedy, and cure for periodic pain in women; and effective as a treatment, remedy, and cure for backache, toothache, rheumatism, neuritis, and the after effect of pain, and constipation following pain; effective as a treatment for intestinal stasis (a form of constipation) in women and girls; effective to relieve without fail any expected headache, backache, or periodic pain in women; and effective always to relieve pain and all pains; and effective in many instances to relieve pain in and around the teeth; (e) in that the following statements contained in the circular aforesaid were false and fraudulent, to wit, "Safe, reliable", "It acts * * * safely and without bad after effects whatsoever", in that said article could not be taken safely without any bad after effects whatsoever.

On March 21, 1936, a plea of nolo contendere having been entered, a fine of \$20 was imposed and costs were awarded against the defendants.

M. L. WILSON, *Acting Secretary of Agriculture.*

25379. Adulteration and misbranding of quinine capsules. U. S. v. 11 Bottles of 5-Grain Quinine Capsules. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 32699. Sample no. 68546-A.)

The label of this article bore erroneous statements concerning an essential ingredient.

On May 14, 1934, the United States attorney for the Middle District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district

court a libel praying seizure and condemnation of a quantity of quinine capsules at Dothan, Ala., alleging that the articles had been shipped in interstate commerce, on or about October 17, 1933, by the Cumberland Manufacturing Co., Nashville, Tenn., from that place to Dothan, Ala., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Bottle) "Dr. Lane's 5 Grain Quinine Capsules * * * Guaranteed * * * under Pure Food and Drugs Act of June 30, 1906, Number 8296."

Adulteration of the article was charged under the allegations that it was sold under a name recognized in the United States Pharmacopoeia, and differed from the standard of strength, quality, and purity as determined by the test laid down in the said pharmacopoeia, and its own standard was not stated on the label.

Misbranding was charged under the allegations that the label on the bottles bore the statements, to wit, "Five Grain Quinine Capsules" and "Guaranteed * * * under Pure Food and Drugs Act of June 30, 1906, Number 8296", which statements were false and misleading.

On August 13, 1934, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25380. Misbranding of Rx 4-11-44 For Poultry. U. S. v. 66 Packages of Rx 4-11-44 For Poultry, and another libel proceeding against the same product. Default decree of condemnation, forfeiture, and destruction in each case. (F. & D. nos. 33083, 33084. Sample nos. 26847-A, 50647-A.)

Unwarranted curative and therapeutic claims were made for this article.

On July 17, 1934, the United States attorney for the Southern District of Ohio, acting upon reports by the Secretary of Agriculture, filed in the district court two libels, each praying seizure and condemnation of quantities of Rx 4-11-44 For Poultry at Cincinnati, Ohio, alleging that the article had been shipped in interstate commerce, on or about April 20, 1934, in one of the libels, and on or about April 28, 1934, in the other of the two libels, by Geo. H. Gould & Son, Louisville, Ky., from that place to Cincinnati, Ohio, and charging misbranding in violation of the Food and Drugs Act. The article was labeled in each of the cases, in part: (Package) "Rx 4-11-44 For Poultry."

Analysis showed that the article consisted essentially of material derived from plant drugs including aconite, a compound of arsenic, alcohol, and water.

Misbranding of the article was charged under the allegation that upon and within the package there appeared the following statements regarding the curative and therapeutic effects of the article, and that said statements were false and fraudulent: "Three to five drops to each sick chicken two or three times a day; as a preventive * * * Has Been Used by Poultry Raisers in the Treatment of Certain Diseases of Poultry * * * R 4-11-44 has been used by Poultry raisers in the treatment of certain diseases of poultry and is guaranteed to give satisfaction. Limberneck: A malady that probably causes more loss to poultry raisers than any other disease, attacking chicks, ducks, turkeys and geese alike, is principally caused by fowls eating decayed flesh but is also caused by unsanitary conditions around stables and stagnant pools of drinking water. Roup: A catarrhal affection of poultry is caused by severe changes of weather, insufficient light and warmth of house, lack of ventilation and undue exposure. Roup is very infectious and requires treatment, disinfecting and cleanliness to rid the premises of same. Cholera: A loathsome disease very prevalent among poultry, is largely due to unsanitary conditions around poultry yards and stagnant pools of water used for drinking purposes. Is very infectious and requires treatment and disinfecting of the premises to get rid of the disease. Gapes: A common disease among young chickens, is probably caused by the chicks eating tainted earth, fish-worms, etc., developing into small worms in the wind-pipe, which finally sap the life and the young chicken dies. * * * Should disease appear in the flock the sick fowls should be separated from the flock and treated individually. Directions For Using R 4-11-44: * * * each sick fowl * * * During the gaping period a weak solution of R 4-11-44 may be dropped with a medicine dropper into the wind-pipe of the gaping chick, causing the chick to gape the worms out and thus relieving it."

On September 14, 1934, no claimant having appeared in either case, a default decree of condemnation, forfeiture, and destruction was entered in each.

M. L. WILSON, *Acting Secretary of Agriculture.*

25381. Misbranding of Bron-Ki. U. S. v. Jesse Miller, trading as Bron-Ki Co. Plea of guilty. Fine, \$10. Execution of sentence suspended. (F. & D. no. 33830. Sample no. 57481-A.)

Unwarranted curative and therapeutic claims were made for this article.

On February 16, 1935, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Jesse Miller, trading as the Bron-Ki Co., Columbus, Ohio, alleging shipment by him, in violation of the Food and Drugs Act as amended, on or about July 31, 1933, from Columbus, Ohio, to North McAlester, Okla., of quantities of Bron-Ki which were misbranded. The article was labeled in part: (Package) "Bron-Ki * * * Bronchitis. Deep Seated Chest Colds Prepared for and Sold by Bron-Ki-Co. Station D. Box 2727 Columbus, Ohio."

Analysis showed that the article contained eucalyptol and terebinthine.

The article was alleged to be misbranded in that the label bore and the leaflet enclosed in the package contained false and fraudulent statements that the article was effective, among other things, as a treatment, remedy, and cure for bronchitis and deep-seated chest colds; and effective to eliminate germ-laden phlegm.

On December 3, 1935, a plea of guilty was entered, a fine of \$10 was imposed, and execution of sentence was suspended.

M. L. WILSON, *Acting Secretary of Agriculture.*

25382. Adulteration and misbranding of strontium salicylate tablets. Misbranding of blaud and strychnine tablets, corrosive sublimate tablets, salol tablets, phenolphthalein tablets. Misbranding of ammonium chloride tablets. Adulteration and misbranding of solution of potassium arsenite (Fowler's solution). Adulteration and misbranding of tincture of aconite tablets. Adulteration of elixir of iron, quinine, and strychnine. Adulteration and misbranding of calomel and phenolphthalein tablets. U. S. v. Frost, Stephens Co. Plea of guilty. Fine, \$150. (F. & D. no. 33838. Sample nos. 48506-A, 55578-A, 58677-A, 58680-A, 58682-A, 58683-A, 58684-A, 58686-A, 59039-A, 59040-A, 59041-A, 59049-A.)

This case was based on interstate shipments of drugs as follows: Strontium salicylate tablets; blaud and strychnine tablets; corrosive sublimate tablets; salol tablets; phenolphthalein tablets; ammonium chloride tablets; solution of potassium arsenite (Fowler's solution); tincture of aconite tablets; elixir of iron, quinine, and strychnine; and calomel and phenolphthalein tablets. The strontium salicylate tablets contained less strontium salicylate and more acetphenetidin than was represented on the label. The blaud and strychnine tablets contained more arsenic (arsenic trioxide), and the number of tablets in the bottles was less than represented on the label. The corrosive sublimate tablets, so-called, contained no corrosive sublimate. The salol tablets in one shipment contained more salol than was represented on the label, and the salol tablets in another shipment contained less salol than was represented on the label. The phenolphthalein tablets contained less phenolphthalein than was represented on the label. The number of ammonium chloride tablets contained in the bottles was less than represented on the label. The solution of potassium arsenite (Fowler's solution) contained less arsenic trioxide and less alcohol than prescribed for such article in the United States Pharmacopoeia, and the quantity of alcohol was not declared on the label. The tincture of aconite tablets, so-called, contained no aconite. The elixir of iron, quinine, and strychnine differed from the standard prescribed for such article in the National Formulary in that it contained less anhydrous quinine and less alcohol, in that it contained iron citrate and quinine citrate, and in that it contained no ferric citrochloride and no quinine hydrochloride. The calomel and phenolphthalein tablets contained more calomel, and the number of tablets in the bottles was less than represented on the label.

On April 26, 1935, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Frost, Stephens Co., a corporation, Elmira, N. Y., charging shipment by said defendant, in violation of the Food and Drugs Act, from the State of New York into the State of Pennsylvania, on or about June 15, August 16, October 5, 9, and 13, 1933, of quantities of the drugs hereinbefore enumerated, contained in bottles, which were, respectively, adulterated or misbranded, or both. The strontium salicylate tablets were labeled: "500 Compressed Tablets Strontium Salicyl. 4 gr. Acetphenetidin 1 gr. Methyl Salicyl. Q. S. Frost, Stephens Co. Elmira, New York." The blaud and strychnine tablets were labeled: "1000 Coated Tablets Blaud and Strych.

Comp. Bland's Mass 5 gr. Strychnine 1/60 gr. Mercury Bich. 1/80 gr. Extract Gentian 1/16 gr. Arsenic 1/64 gr. Capsicum 1/64 gr. Frost, Stephens Co. Elmira, New York." The corrosive sublimate tablets were labeled: "500 Corrosive Sublimate 1/40 Gr. Frost, Stephens Co. Elmira, New York." The salol tablets were labeled: "Compressed Tablets Salol Each tablet contains Salol 2½ gr. 500 Frost, Stephens Co. Elmira, New York." The phenolphthalein tablets were labeled: "Phenolphthalein 1 Gr. 500 Frost, Stephens Co. Elmira, New York." The ammonium chloride tablets were labeled: "500 Ammon. Chloride 5 gr. Frost, Stephens Co. Elmira, New York." The solution of potassium arsenite (Fowler's solution) was labeled: "Solution Potassium Arsenitis (Fowler's Solution) Poison Frost, Stephens Co. Elmira, New York." The tincture of aconite tablets were labeled: "C. Tablet Triturates Aconite Tincture 3-1/2 min. Frost, Stephens Co. Elmira, New York." The elixir of iron, quinine, and strychnine was labeled: "Elixir Iron, Quinine and Strych. No. 2 Alcohol 13% Each fluid ounce contains Strychnine Sul. 1/8 gr. Quinine Citrate 1 gr. Iron Citrate 16 gr. Frost, Stephens Co. Elmira, New York." The calomel and phenolphthalein tablets were labeled: "1000 Calomel 1/4 Gr. Phen. 1/4 Gr. Frost, Stephens Co. Elmira, New York."

The strontium salicylate tablets were alleged to be adulterated in that their strength and purity fell below the professed standard and quality under which they were sold, since the tablets were represented to contain in each, 4 grains of strontium salicylate and 1 grain of acetphenetidin; whereas, in fact, they each contained less than 4 grains of strontium and more than 1 grain of acetphenetidin. The strontium salicylate tablets were alleged to be misbranded in that the statement, "Strontium Salicyl. 4 gr. Acetphenetidin 1 gr.", borne on the label, was false and misleading, since it represented that the tablets each contained 4 grains of strontium salicylate and 1 grain of acetphenetidin; whereas, in fact, they each contained less than 4 grains of strontium salicylate and more than 1 grain of acetphenetidin.

The bland and strychnine tablets were alleged to be misbranded in that the statements, "1000 * * * Tablets," and "Arsenic 1/64 gr.", borne on the label, were false and misleading, since they represented that the bottles each contained 1,000 tablets, and that these tablets each contained one-sixty-fourth of a grain of arsenic, that is, arsenic trioxide; whereas, in fact, the bottles each contained less than 1,000 tablets, and the tablets each contained more than one sixty-fourth of a grain of arsenic, that is, arsenic trioxide.

The corrosive sublimate tablets were alleged to be adulterated in that their strength and purity fell below the professed standard and quality under which they were sold, since the tablets were represented to contain in each one-fortieth of a grain of corrosive sublimate; whereas, in fact, they each contained no corrosive sublimate. The corrosive sublimate tablets were alleged to be misbranded in that the statement, "Corrosive Sublimate 1/40 Gr.", borne on the label, was false and misleading, since it represented that the tablets each contained one-fortieth of a grain of corrosive sublimate; whereas, in fact, they each contained no corrosive sublimate.

The salol tablets in one shipment were alleged to be adulterated in that their strength and purity fell below the professed standard and quality under which they were sold, since the tablets were each represented to contain 2½ grains of salol; whereas, in fact, the tablets each contained more than 2½ grains of salol. Misbranding of these salol tablets was alleged in that the statement, "Tablets Salol Each tablet contains Salol 2½ gr.", borne on the label, was false and misleading, since it represented that the tablets each contained 2½ grains of salol; whereas, in fact, the tablets each contained more than 2½ grains of salol.

The salol tablets in another shipment were alleged to be adulterated in that their strength and purity fell below the professed standard and quality under which they were sold, since the tablets were represented to contain 2½ grains of salol; whereas, in fact, the tablets each contained less than 2½ grains of salol. Misbranding of these salol tablets was alleged in that the statement, "Tablets Salol Each tablet contains Salol 2½ gr.", borne on the label, was false and misleading, since it represented each of the tablets to contain 2½ grains of salol; whereas, in fact, the tablets each contained less than 2½ grains of salol.

The phenolphthalein tablets were alleged to be adulterated in that their strength and purity fell below the professed standard and quality under which they were sold, since each of the tablets was represented to contain 1 grain of phenolphthalein; whereas, in fact, they contained each less than 1 grain of

phenolphthalein. The phenolphthalein tablets were alleged to be misbranded in that the statement, "Phenolphthalein 1 Gr.", borne on the label, was false and misleading, since it represented that the tablets each contained 1 grain of phenolphthalein; whereas, in fact, the tablets each contained less than 1 grain of phenolphthalein.

The ammonium chloride tablets were alleged to be misbranded in that the statement, "1000 Ammon. Chloride 5 Gr.", borne on the label, was false and misleading, since it represented that the bottles each contained 1,000 5-grain ammonium chloride tablets; whereas in fact, the bottles each contained less than 1,000 5-grain ammonium chloride tablets.

The solution of potassium arsenite was alleged to be adulterated in that it was sold under and by a name recognized in the United States Pharmacopoeia and differed from the standard of strength, quality, and purity as determined by the tests laid down in said pharmacopoeia, since the article contained less than 0.975, to wit, not more than 0.952 gram of arsenic trioxide per 100 cubic centimeters and contained 0.23 percent of alcohol by volume; whereas said pharmacopoeia provides that solution of potassium arsenite (Fowler's solution) shall contain not less than 0.975 gram of arsenic trioxide per 100 cubic centimeters, and that said solution shall contain from 1 to 3 percent of alcohol; and the standard of strength, quality, and purity of the article was not declared on the container. The solution of potassium arsenite was alleged to be misbranded in that it contained alcohol and the label failed to bear a statement of the quantity and proportion thereof.

The tincture of aconite tablets were alleged to be adulterated in that their strength and purity fell below the professed standard and quality under which they were sold, since each of the tablets was represented to contain the equivalent of $3\frac{1}{2}$ minims of tincture of aconite; whereas, in fact, they contained no aconite. The tincture of aconite tablets were alleged to be misbranded in that the statement, "Tablets Triturates Aconite Tincture $3\frac{1}{2}$ min.", borne on the label, was false and misleading, since it represented that each of the tablets contained the equivalent of $3\frac{1}{2}$ minims of tincture of aconite; whereas, in fact, they contained no aconite.

The elixir of iron, quinine, and strychnine was alleged to be adulterated in that it was sold under and by a name recognized in the National Formulary and differed from the standard of strength, quality, and purity as determined by the tests laid down in said formulary, since the article contained not more than 2.02 milligrams of anhydrous quinine per milliliter or less than one-third of anhydrous quinine per milliliter contained in the same volume of elixir of iron, quinine, and strychnine of National Formulary strength, contained iron citrate and quinine citrate, contained no ferric citrochloride and no quinine hydrochloride, and contained not more than 11.44 percent of alcohol by volume; whereas said formulary provides that elixir of iron, quinine, and strychnine shall contain not less than one-third of anhydrous quinine per milliliter, that it shall contain ferric citrochloride and quinine hydrochloride, that it shall contain not less than 24 percent by volume of alcohol, and does not include quinine citrate and iron citrate as components of elixir of iron, quinine, and strychnine; and the standard of strength, quality, and purity of the article was not declared on the label.

The calomel and phenolphthalein tablets were alleged to be adulterated in that their strength and purity fell below the professed standard and quality under which they were sold, since they were represented to contain in each one-fourth of a grain of calomel, whereas they each contained more than one-fourth of a grain of calomel. The calomel and phenolphthalein tablets were alleged to be misbranded in that the statement, "1000 Calomel $1\frac{1}{4}$ Gr.", borne on the label, was false and misleading, since it represented that the bottles each contained 1,000 tablets, and that the tablets each contained one-fourth of a grain of calomel; whereas, in fact, the bottles each contained less than 1,000 tablets, and the tablets each contained more than one-fourth of a grain of calomel.

On November 22, 1935, a plea of guilty was entered on behalf of the defendant corporation and the court imposed a fine of \$150.

M. L. WILSON, *Acting Secretary of Agriculture.*

25383. Misbranding of Kuhn's Ep-Sum Pill. U. S. v. Harry Dale Kuhn, trading as the H. Dale Kuhn Laboratory. Plea of nolo contendere. Fine, \$50 and costs. (F. & D. no. 33846. Sample no. 67906-A.)

Unwarranted therapeutic and curative claims were made for this article, and its label bore erroneous statements concerning its composition.

On December 18, 1934, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Harry Dale Kuhn, trading as the H. Dale Kuhn Laboratory, Shelby, Ohio, alleging shipment by him in violation of the Food and Drugs Act as amended, on or about March 21, 1934, from Shelby, Ohio, to Syracuse, N. Y., of quantities of Kuhn's Ep-Sum Pill which was misbranded. The article was labeled in part: (Box) "Keep Fit Kuhn's Ep-Sum Pill * * * The Pill That Will Miss Perfect Form Mr. Feel Bully * * * H. Dale Kuhn Lab. Shelby, Ohio."

Analysis showed that the article consisted of white lime-carbonate-coated pills containing essentially phenolphthalein, Epsom salt, and aloin.

Misbranding of the article was charged (a) under the allegation that the label on the box and a circular enclosed in the box bore and contained statements concerning the therapeutic or curative efficacy of the article, and that the said statements were false and fraudulent, to wit, that the article was effective, among other things, to keep one fit, to keep the bowels free, and to aid in controlling weight; (b) under the allegation that there was borne on the box label, the statements, to wit, "Ep-Sum Pill" and "Epsom Salts Compound Pills", and that there were contained in a circular enclosed in the package the statements, to wit, "formerly called Kuhn's Epsom Salts Compound Pill. Our laboratory was the first to concentrate Epsom Salts and combine it with other ingredients", and that said statements were false and misleading, in that the article contained very little, if any, Epsom salts, and was composed chiefly of aloin and phenolphthalein.

On March 21, 1936, a plea of nolo contendere having been entered, a fine of \$50 was imposed and costs were awarded against the defendant.

M. L. WILSON, *Acting Secretary of Agriculture.*

25384. Adulteration of Ideal Tincture Iodine, and adulteration and misbranding of Ideal Unguentum and Ideal Carbolie Salve. U. S. v. National Sales Chain Corporation. Plea of guilty. Fine, \$42. (F. & D. no. 33960. Sample nos. 67005-A, 67006-A, 67021-A.)

Two of these articles differed from the pharmacopoeial standard; one of them fell below its professed standard, unwarranted curative and therapeutic claims were made for one, and the labels of two bore incorrect statements.

On October 21, 1935, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the National Sales Chain Corporation, New York, N. Y., alleging shipment by it, in violation of the Food and Drugs Act as amended, in the period from October 13, 1933, to January 12, 1934, from New York, N. Y., to Scranton, Pa., of quantities of Ideal Unguentum, Ideal Tincture Iodine, and Ideal Carbolie Salve, all of which products were adulterated and two of which were misbranded. The articles were labeled in part: (Ideal Unguentum and Ideal Tincture Iodine, jars) "Guaranteed by National Sales Chain Corp'n New York City"; (Ideal Carbolie Salve, tins) "Guaranteed by National Sales Chain Company New York."

The Ideal Unguentum was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia and differed from the standard of strength, quality, and purity determined by the test laid down in that authority, and that it so differed in that it contained no yellow wax and no benzoinated lard, and the standard of strength, quality, and purity of the said article was not declared on the container thereof.

The Ideal Tincture Iodine was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia and differed from the standard of strength, quality, and purity determined by the test laid down in that authority, and that it so differed in that it contained less potassium iodide and iodine per 100 cubic centimeters than required by such standard,

and the standard of strength, quality, and purity of the said article was not declared on the container thereof.

The Ideal Carbolic Salve was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, and so fell below in that said article was represented to be antiseptic and was not antiseptic.

The Ideal Unguentum was alleged to be misbranded (a) in that the statements on its label, to wit, "Unguentum", "Antiseptic", and "Contains * * * Ammonium Sulphoichthyolate", represented that it was unguentum as defined in the United States Pharmacopoeia, that it was antiseptic, and that it contained ammonium sulphoichthyolate, and that the aforesaid statements were false and misleading in that the article was not unguentum as so defined, was not antiseptic, and did not contain ammonium sulphoichthyolate; and (b) in that there appeared on the label of the jars of the article statements that it was effective, among other things, as a treatment, remedy, and cure for boils, pimples, piles, eczema, and ulcers; and effective as a healing agent; and that the aforesaid statements were false and fraudulent.

The Ideal Carbolic Salve was alleged to be misbranded in that the statements borne on its labels, to wit, "Antiseptic" and "directions", represented that said article was antiseptic when used as directed, and that the aforesaid statements were false and misleading.

On December 12, 1935, a plea of guilty was entered and a fine of \$42 was imposed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25385. Misbranding of Tipona Tablets. U. S. v. Hi-Test Laboratories. Plea of nolo contendere. Fine, \$50 and costs. (F. & D. no. 33968. Sample no. 4256-B.)

Unwarranted curative and therapeutic claims were made for this article and its label misrepresented its ingredients and falsely represented that the article could be administered safely.

On July 24, 1935, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Hi-Test Laboratories, a corporation, Cleveland, Ohio, alleging shipment by it under the name of Maison Laboratories, in violation of the Food and Drugs Act as amended, on or about July 3, 1934, from Cleveland, Ohio, to St. Louis, Mo., of certain quantities of Tipona Tablets which were misbranded. The article was labeled in part: (Carton and envelope) "Tipona Tablets A proven Way of Attaining Slenderness Easily, Surely and Safely * * * The Tipona Company Cleveland, O."

Analysis showed that the article consisted essentially of phenolphthalein, (1 grain per tablet) caffeine, and desiccated thyroid (approximately one-fourth of a grain per tablet).

The article was alleged to be misbranded (a) in that a circular enclosed in the carton contained false and fraudulent statements that the article was effective, among other things, as a preventive of fat; effective to produce muscle, bone, and sound flesh; effective to correct the lack of functioning of certain important glands; effective to eliminate fat and to give new life, energy, vigor, freshness, and pep, and to resist sickness and disease germs; effective to reduce and eliminate weighty, dragging, superfluous flesh, and to promote freer heart action and a cleaner and more thorough digestive action; and effective to insure normal weight; and (b) in that the statements, to wit, "No drugs of Any Kind", borne on the circulars aforesaid, and "Safely", borne on the cartons and on the envelopes containing the article, were false and misleading, in that the article contained phenolphthalein and caffeine and in that these ingredients could not be administered safely.

On March 27, 1936, a plea of nolo contendere having been entered, a fine of \$50 was imposed and costs were awarded against the defendants.

M. L. WILSON, *Acting Secretary of Agriculture.*

25386. Misbranding of Poloris Dental Poultice. U. S. v. 555 Boxes of Poloris Dental Poultice. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 35136. Sample no. 26051-B.)

Unwarranted therapeutic or curative claims were made for this article.

On February 14, 1935, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of a quantity of Poloris Dental Poultice at Springfield, Mass., alleging that the article had

been shipped in interstate commerce, on or about August 21, 1934, and January 27, 1935, by the Poloris Co., Inc., New York, N. Y., from that place to Springfield, Mass., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Package) "Poloris Dental Poultice."

Analysis showed that the article consisted essentially of plant material such as belladonna leaves, hops, aconite, sassafras, and acacia.

Misbranding of the article was charged under the allegations that upon and within the package there appeared the following statements regarding the curative or therapeutic effects of the article, and that the said statements were false and fraudulent: (Display carton) "Toothache Abscess Swelling * * * Or any Inflammation of Teeth & Gums A Treatment for the Relief of Toothache Due to * * * 3. Abscess Conditions. * * * 6. Gingivitis. 7. Trench Mouth. 8. Soreness After Treating Pyorrhea. 9. During Pregnancy Cases"; (large circular) "TOOTHACHE * * * For toothache of any other kind."

On April 22, 1935, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25387. Misbranding of Blood Purifier. U. S. v. 35% Dozen Bottles of Blood Purifier. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 35412. Sample no. 16442-B.)

Unwarranted curative and therapeutic claims were made for this article and its label bore erroneous statements concerning its ingredients.

On April 26, 1935, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of a quantity of Blood Purifier at Fort Worth, Tex., alleging that the article had been shipped in interstate commerce, on or about December 31, 1934, by the De Pree Co., Holland, Mich., from that place to Fort Worth, Tex., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Bottle) "Nurse Brand Blood Purifier A Reliable Blood Purifier."

Analysis showed that the article consisted essentially of potassium iodide (0.7 gram per 100 milliliters), extracts of plant drugs including a laxative drug, alcohol, sugar, and water.

Misbranding of the article was charged (a) under the allegations that the labels on the bottles bore the statements, to wit, "Nurse Brand Blood Purifier is a Concentrated Extract of well known roots and barks Nurse Brand Blood Purifier combines the powerful tonic and alterative virtues of the following ingredients: Honduras sarsaparilla. Dandelion Root. Burdock Root Red Clover Tops Potassium Iodide", that the article contained a laxative plant drug not mentioned among the ingredients listed on the labels; that potassium iodide is a mineral drug, and not an extract of a root or bark; that the aforesaid statements were false and misleading; (b) under the allegations that upon the label of each of the bottles there appeared the following statements regarding the curative and therapeutic effect of the article, and that the statements were false and fraudulent: "Blood Purifier A Reliable Blood Purifier Nurse Brand Blood Purifier is a Concentrated Extract of well known roots and barks noted for their alterative and tonic action upon the blood and liver, and thus upon the entire system. The formula includes iodide of potash, a powerful agent in removing impurities from the blood . . . Nurse Brand Blood Purifier is valuable * * * in treating disorders arising from a sluggish liver and in skin affections resulting from impure blood,—the symptoms usually being Listlessness, Lack of Energy, Coated Tongue, Boils, Pimples and Blotches."

On February 8, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25388. Misbranding of "V. M." U. S. v. 92 Bottles of "V. M." Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 35541. Sample no. 37628-B.)

Unwarranted curative and therapeutic claims were made for this article.

On May 25, 1935, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 92 bottles of "V. M."

at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about April 3, 1935, by the Bio-Vegetin Products Co., Inc., Chicago, Ill., from that place to Seattle, Wash., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "V. M. * * * V. M. Products 500—510 North Dearborn St., Chicago, Ill."

Analysis showed that the article consisted essentially of plant material, including peanut hulls and seed coats, flax pods, flax stems, flax hulls, cornstarch, and mucilaginous material.

The article was alleged to be misbranded in that statements on the label and carton, contained in the circular, and borne on the card enclosed in the package, falsely and fraudulently represented that the article was effective, among other things, as a cure and remedy in the treatment of gastric and duodenal ulcer, peptic ulcer, gastric inflammations, hyperacidity, irritable colon, alcoholic stomachs, stomach and intestinal ailments, persistent nausea and vomiting, cramp-like pains, gastritis, ulcerative colitis; and that it was effective to provide a protective coating for inflamed surfaces of the stomach.

On December 30, 1935, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25389. Misbranding of Red Heart Blood Tabs and Prescription 1000. U. S. v. Reese Chemical Co., a corporation, and George W. Reese. *Pleas of nolo contendere. Fine, \$250 and costs.* (F. & D. no. 33806. Sample nos. 46544-A, 46545-A, 46550-A.)

Unwarranted therapeutic and curative claims were made for these articles.

On December 18, 1934, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Reese Chemical Co., a corporation, Cleveland, Ohio, and George W. Reese, its president, alleging shipment by them in violation of the Food and Drugs Act as amended, in the period from March 19, 1932, to July 27, 1933, from Cleveland, Ohio, to various places in other States, of quantities of Red Heart Blood Tabs and Prescription 1000, which were misbranded. The articles were labeled in part: (Bottle) "Blood Tabs Blood and System Tonic * * * The Reese Chemical Co. Cleveland, Ohio", (carton) "Red Heart Blood Tabs"; (bottle) "Prescription 1000 Internal * * * Reese Chem. Co. Cleveland, O.", (bottle) "For External Use Only Prescription 1000."

Analyses showed that the Red Heart Blood Tabs were sugar and lime carbonate-coated pills that consisted essentially of an iron compound, small proportions of zinc phosphide, plant extractives including nux vomica and an emodin-bearing drug and capsicum; that the Prescription 1000 Internal consisted essentially of copaiba, santal oil, methyl salicylate, a small proportion of alkali and water; and that the Prescription 1000 External consisted essentially of potassium permanganate (0.1 percent) and water (99.9 percent).

Misbranding of the Red Heart Blood Tabs was charged under the allegation that the labels of the bottles and cartons and a circular enclosed in the packages bore and contained certain statements that were false and fraudulent, to wit, that the article was effective, among other things, as a blood, nerve, and system tonic; effective as a treatment for lack of ambition and blood and nerve troubles; effective to supply vim, ambition, zip, strength, punch, fight, energy, youth, and pep to the system, to stimulate self-confidence, and to increase health and strength; and effective as a treatment for run-down condition.

Misbranding of Prescription 1000 Internal was charged under the allegation that the labels of the bottles and cartons and a leaflet and a circular enclosed in the package bore and contained certain statements that were false and fraudulent, to wit, that the article was effective, among other things, as a treatment, remedy, and cure for gonorrhea; and effective when used alone or in connection with Prescription 1000 External as a treatment, remedy, and cure for gonorrhea.

Misbranding of Prescription 1000 External was charged under the allegation that the labels on the bottles and cartons and a leaflet and a circular enclosed in the package bore and contained certain statements that were false and fraudulent, to wit, that the article was effective, among other things, as a treatment, remedy, and cure for gonorrhea; and effective when used alone or in connection with Prescription 1000 Internal as a treatment, remedy, and cure for gonorrhea.

On March 21, 1936, pleas of nolo contendere having been entered, a fine of \$250 was imposed and costs were awarded against the defendants.

The court filed a memorandum as follows:

WEST, Judge: In six counts of an information the defendants are charged with violations of the Pure Food and Drugs Act by shipping from Cleveland to points in West Virginia, Louisiana, and Texas, consignments of medicines falsely labeled and misbranded. These appear to be so-called Red Heart Blood Tabs and a drug labeled "Prescription 1000" for internal and external use. It is charged that the labels and accompanying literature contain exaggerated and false claims as to the curative properties of the drugs, which are unnecessary to recite. Count No. 4 is dismissed by the government. To the remaining five counts the plea of the defendants is *nolo contendere*. Each count alleges a second offense by pleading the defendants' former conviction in this court in May 1917, when a small fine was assessed. Part of the shipments at least were seized, confiscated, and destroyed, no claimant appearing. Defendants claim to have taken the advice of counsel with respect to their labels and advertising, which they say has been changed at times in order to conform to their understanding of the law. However, the plea entered makes it unnecessary to consider these matters, except perhaps as they may tend to mitigate punishment.

This is a peculiarly obnoxious method of defrauding the public, and in view of the former conviction, the court thinks a substantial penalty should be imposed. The sentence of the court is that the defendants on each of the remaining five counts pay a fine of \$50 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

25390. Misbranding of Maison's Cresol Solution. U. S. v. Hi-Test Laboratories, Inc. Plea of nolo contendere. Fine, \$50. (F. & D. no. 34009. Sample no. 4260-B.)

This case involved a drug preparation the labeling of which contained unwarranted antiseptic and disinfectant claims.

On May 14, 1935, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Hi-Test Laboratories, Inc., Cleveland, Ohio, alleging shipment by said company, under the name of Maison Labs., Co., in violation of the Food and Drugs Act on or about July 3, 1934, from the State of Ohio into the State of Missouri, of a quantity of Maison's Cresol Solution which was misbranded.

The article was alleged to be misbranded in that the statements on the label, "Antiseptic disinfectant * * * ¼ per cent solution—(one teaspoonful to two quarts) in warm water", borne on the bottle label, were false and misleading in that the said statements represented that the article was antiseptic and disinfectant when used as directed; whereas it was not antiseptic and disinfectant when used as directed. The information also charged adulteration and misbranding of the article in violation of the Insecticide Act of 1910, reported in notice of judgment no. 1451 published under that act.

On March 27, 1936, a plea of *nolo contendere* was entered on behalf of defendant company and the court imposed a fine of \$50 for violation of both acts.

M. L. WILSON, *Acting Secretary of Agriculture.*

25391. Adulteration and misbranding of Pennex Brand Camphorated Oil U. S. P., Pennex Brand Essence of Peppermint U. S. P., and Pennex Brand Spirit of Camphor U. S. P. U. S. v. The Pennex Products Co., Inc., Ruben Sachnoff, Anna Schugar, and Frank W. Wentworth. Pleas of nolo contendere. Defendant corporation fined \$50 and costs awarded against it. Each of the individual defendants fined \$25. (F. & D. no. 35918. Sample nos. 23651-B to 23655-B, incl.)

The labels of these articles erroneously represented that they were of pharmacopoeial standard. The labels of the essence of peppermint and of the spirit of camphor failed to state correctly the proportion of alcohol contained, and the essence of peppermint was misbranded in that denatured alcohol had been substituted for alcohol.

On November 13, 1935, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Pennex Products Co., Inc., Pittsburgh, Pa., Ruben Sachnoff, Anna Schugar, and Frank W. Wentworth, alleging shipments by them in violation of the Food and Drugs Act as amended, in the period from November 12, 1934, to January 28, 1935, from Pittsburgh, Pa., to Youngstown, Ohio, of quantities of Pennex Brand Camphorated Oil U. S. P., Pennex Brand Essence of Peppermint U. S. P., and Pennex Brand Spirit of Camphor U. S. P., which were both adulterated and misbranded.

The articles were labeled in part: (Bottle) "Pennex (Trademark) Brand Camphorated Oil Pennex Products * * * Pennex Products Co. Pittsburgh, Pa."; (bottle) "Pennex (Trademark) Brand Essence of Peppermint Alcohol 85% * * * Penna. Mfgs. & Extract Co. Pittsburgh, Pa. U. S. A."; (bottle) "Pennex (Trademark) Brand Spirit of Camphor U. S. P. Alcohol 86% * * * Contents $\frac{3}{4}$ Oz. Penna. Mfgs. & Extract Co. Pittsburgh, Pa. U. S. A."

Analyses showed that the camphorated oil contained not over 9.31 percent of camphor, or an average shortage of 53.8 percent below the United States Pharmacopoeial minimum of 19 percent of camphor in camphorated oil; that the essence of peppermint contained 77.7 percent of alcohol, diethylphthalate, and not over 4.6 percent of oil of peppermint by volume, or an average shortage of 55.0 percent below the United States Pharmacopoeial specification for essence of peppermint; that the spirit of camphor contained 75.4 percent of alcohol, diethylphthalate, and not over 7.7 grams per 100 cubic centimeters of camphor, or a shortage of 18.9 percent below the United States Pharmacopoeial minimum for spirit of camphor. It also was found that the bottles of spirit of camphor contained not more than 0.710 fluid ounces, or an average shortage of 8.5 percent, in net contents.

The camphorated oil was alleged to be adulterated (a) in that it was sold under a name recognized by the United States Pharmacopoeia and differed from the standard of strength, quality, and purity as determined by the test laid down in the said pharmacopoeia, in that the article yielded not more than 9.31 percent of camphor, and its standard of strength, quality, and purity was not declared on the container; (b) in that its strength and purity fell below the professed standard and quality under which it was sold, in that it was not camphorated oil which conformed to the test laid down by the United States Pharmacopoeia.

The essence of peppermint was alleged to be adulterated (a) in that it was sold under a name recognized in the United States Pharmacopoeia and differed from the standard of strength, quality, and purity as determined by the test laid down by the said pharmacopoeia, in that the article contained not more than 4.6 percent of oil of peppermint per 100 cubic centimeters, and its standard of strength, quality, and purity was not declared on the container thereof; (b) in that its strength and purity fell below the professed standard and quality under which it was sold, in that it was not essence of peppermint which conformed to the test laid down by the United States Pharmacopoeia.

The spirit of camphor was alleged to be adulterated (a) in that it was sold under a name recognized by the United States Pharmacopoeia, and differed from the standard of strength, quality, and purity as determined by the test laid down in said pharmacopoeia, in that the article contained not more than 7.7 grams of camphor in each 100 cubic centimeters and that it contained not more than 75.4 percent of alcohol by volume, and its standard of strength, quality, and purity was not declared on the container thereof; (b) in that its strength and purity fell below the professed standard and quality under which it was sold, in that it was not spirit of camphor which conformed to the test laid down by the United States Pharmacopoeia.

The camphorated oil was alleged to be misbranded in that the statements borne on the cartons and on the labels attached to the bottles, to wit, "Camphorated Oil U. S. P." and "* * * U. S. P. * * *" and "Guaranteed to comply with the provisions of all Pure Food Laws, State and National", were false and misleading.

The essence of peppermint was alleged to be misbranded (a) in that the statements borne on the cartons, to wit, "Essence of Peppermint U. S. P. Alcohol 85% * * * U. S. P. * * * Guaranteed to Comply with the Provisions of All Pure Food Laws, State and National", and the statement borne on the bottle label, to wit, "Alcohol 85% * * * Guaranteed Pure and to comply with all National and State Food Laws", were false and misleading; (b) in that its package or label failed to bear a statement of the quantity or proportion of alcohol contained therein, in that the statement on the carton and bottle label, "alcohol 85%", was incorrect; (c) and in that denatured alcohol had been substituted in whole or in part for alcohol.

The spirit of camphor was alleged to be misbranded (a) in that the statements borne on the carton, to wit, "Spirit of Camphor U. S. P. 85% * * * U. S. P. * * * Guaranteed to Comply with the Provisions of all Pure Food Laws, State and National", and the statements borne on the labels attached to the bottles, to wit, "Spirits of Camphor U. S. P. Alcohol 86% * * * Contents $\frac{3}{4}$ Oz. * * * Guaranteed pure and to comply with

all National and State Food Laws", were false and misleading; (b) and in that its package and label failed to bear a statement of the quantity or proportion of alcohol contained therein, in that the statement on the carton, to wit, "alcohol 85%", and the statement on the bottle label, to wit, "alcohol 86%", were incorrect.

On December 5, 1935, pleas of *nolo contendere* having been entered, the defendant corporation was fined \$50, costs were awarded against it, and each of the individual defendants was fined \$25.

M. L. WILSON, *Acting Secretary of Agriculture.*

25392. Adulteration and misbranding of fluidextract of belladonna leaves U. S. P. U. S. v. Allaire, Woodward & Co., a corporation. Plea of guilty. Fine, \$250, and costs awarded against defendant. (F. & D. no. 35941. I. S. nos. 28209-B, 35152-B.)

This article was inferior to its professed standard and its label bore an erroneous statement.

On September 24, 1935, the United States attorney for the Southern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Allaire, Woodward & Co., a corporation, Peoria, Ill., alleging shipment in violation of the Food and Drugs Act as amended, on or about April 15 and 17, 1935, from Peoria, Ill., to Indianapolis, Ind., and St. Louis, Mo., respectively, of quantities of fluidextract of belladonna leaves U. S. P., which were adulterated and misbranded. The article was labeled in part: (Bottle) "Fluid Extract Bella Donna Leaves U. S. P. Alcohol 58 to 63% * * * Allaire, Woodward & Co. Pharmaceutical Chemists and Drug Millers Peoria, Illinois."

Analysis showed that the alkaloid contents of the article materially exceeded the requirements of the United States Pharmacopoeia.

The article was alleged to be adulterated (a) in that it was sold under a name recognized in the United States Pharmacopoeia and differed from the standard of strength, quality, and purity as determined by the test laid down therein, in that the article yielded more than 0.33 gram of the total alkaloids of belladonna leaves per 100 cubic centimeters, and the standard of strength, quality, and purity of the article was not declared on the container thereof; and (b) in that the professed standard of the article was that of fluidextract of belladonna leaves as determined by the test laid down in the United States Pharmacopoeia and that said article fell below such standard in that it yielded more than 0.33 gram of the total alkaloids of belladonna leaves per 100 cubic centimeters.

The article was alleged to be misbranded in that the statement borne on the label, to wit, "Fluid Extract Belladonna Leaves U. S. P.", was false and misleading, in that it was not of pharmacopoeial standard.

On December 16, 1935, a plea of guilty was entered, a fine of \$250 was imposed, and costs were awarded against the defendant.

M. L. WILSON, *Acting Secretary of Agriculture.*

25393. Adulteration and misbranding of Watkins Veterinary Balm. U. S. v. J. R. Watkins Co., a corporation. Plea of guilty. Fine, \$135. (F. & D. no. 35949. Sample nos. 1543-B, 12122-B, 53412-A.)

Unwarranted curative and therapeutic claims were made for this article.

On January 28, 1936, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the J. R. Watkins Co., a corporation, Winona, Minn., alleging shipment by it in violation of the Food and Drugs Act as amended, in the period from April 10, 1934, to January 4, 1935, from Winona, Minn., to Oakland, Calif., of quantities of Watkins Veterinary Balm which was misbranded. The article was labeled in part' (Can) "J. R. Watkins * * * Veterinary Balm * * * Is a soothing Germicidal Salve * * * It contains a powerful antiseptic * * * The J. R. Watkins Company Winona, Minn., U. S. A."

Analysis showed that the article consisted essentially of petrolatum containing a small amount of methyl salicylate; and that the article was not germicidal and antiseptic when used as directed, and did not contain a powerful antiseptic more effective in killing than carbolic acid (phenol).

Adulteration of the article was charged under the allegation that its strength and purity fell below the professed standard and quality under which it was sold, in that said article was not germicidal and was not antiseptic when used as directed.

Misbranding of the article was charged (a) under the allegation that the labels on the cans bore statements that were false and fraudulent, to wit, that the article was effective, among other things, as a remedy for sores; effective as a treatment, remedy, and cure for inflammation and congestion of the udders of cows, sows, and ewes; effective for the relief of certain simple disorders peculiar to the udders of cows, sows, and ewes, such as hardness, inflammation and congestion; effective as helpful in preventing and checking cowpox, and as a remedy and cure for cowpox; and effective as a remedy for open cuts, galls, and sore shoulders in horses; (b) under the allegation that the label attached to the can bore the statements, to wit, "Germicidal Salve", "It contains a powerful antiseptic which is more highly effective in killing than carbolic acid (phenol)", and "an antiseptic dressing", and that the statements were false and misleading, in that said article was not germicidal and did not contain a powerful antiseptic more highly effective in killing than carbolic acid (phenol).

On January 29, 1936, a plea of guilty having been entered, a fine of \$135 was imposed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25394. Adulteration and misbranding of Sanacaps and misbranding of Dr. Rogers' Relief Compound. U. S. v. Jessie Rogers, trading as the Osan Products Co. Plea of guilty. Fine, \$50. (F. & D. no. 35952. Sample nos. 65466-A, 65480-A.)

Unwarranted curative and therapeutic claims were made for these articles and their labels bore erroneous statements.

On October 1, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Jessie Rogers, trading as the Osan Products Co., Chicago, Ill., alleging shipment by her in violation of the Food and Drugs Act as amended, on or about May 22 and June 3, 1934, from Chicago, Ill., to Royal Oak, Mich., of quantities of Dr. Rogers' Relief Compound and Sanacaps which were adulterated and misbranded. The articles were labeled in part: (Carton) "Sanacaps Osan Products Co. 6052 Harper Ave. Chicago, Ill. A Scientific Germicide and Protection against infection"; (carton) "Dr. Rogers' Relief Compound * * * Distributed By Osan Products Company, Chicago, Ill."

Analysis showed that the Sanacaps contained sodium bicarbonate, tartaric acid, and a small proportion of chloramine-T; and that it was not a germicide, that it would not destroy infectious germs, and would not destroy germs in a few seconds; that Dr. Rogers' Relief Compound contained aloë, a turpentine oil resembling oil of savin, and iron sulphate and was coated with sugar and calcium carbonate.

The Sanacaps were alleged to be adulterated in that they fell below the professed standard and quality under which they were sold, in that they were represented to be a germicide when, in fact, they were not.

The Sanacaps were alleged to be misbranded (a) in that the statement contained in a circular enclosed in the package, to wit, "Destroying infectious germs * * * they destroy germs in a few seconds" and the statement, to wit, "germicide", borne on the carton, were false and misleading in that said article would not destroy infectious germs and was not a germicide; (b) in that the circular enclosed in the carton bore false and fraudulent statements that the article was effective, among other things, as a treatment for minor vaginal ailments and as a protection against infection; effective to destroy infectious germs present in the vagina; and effective as a treatment, remedy, and cure for leucorrhea and inflammation.

Dr. Rogers' Relief Compound was alleged to be misbranded (a) in that the carton bore and a circular contained in the carton contained false and fraudulent statements that the article was effective as a relief for delayed or irregular periods; effective as a treatment for suppressed periods, difficult or scanty menstruation; effective as a regulator; and effective, when used in connection with Osan Yellow Ground Mustard, as a powerful assistant in bringing about the normal menstrual flow; (b) in that the statements on the label, to wit, "Our medicines are guaranteed to comply with the rigid requirements of the Pure Food and Drug Laws and are made from * * * harmless * * * ingredients. You have nothing to fear. * * * Our medicines are * * * harmless", were false and misleading in that the said article did not comply with the requirements of the Food and Drugs Act of June 30, 1906, and did contain harmful ingredients.

On January 20, 1936, a plea of guilty was entered and a fine of \$25 was imposed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25395. Adulteration and misbranding of barbital tablets, cinchophen tablets, phenobarbital tablets, and sugar-coated strychnine sulphate tablets.
U. S. v. Hance Bros. & White, Inc. Plea of guilty. Defendant placed upon probation for 1 year. (F. & D. no. 35968. Sample nos. 18059-B, 18067-B, 18068-B, 18081-B, 18099-B.)

These articles did not conform to the standard under which they were sold and their labels bore erroneous statements as to the quantities of their essential ingredients, respectively.

On September 18, 1935, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Hance Bros. & White, Inc., Philadelphia, Pa., alleging shipment in violation of the Food and Drugs Act as amended, on or about August 24, 1934, from Philadelphia, Pa., to Lambertville, N. J., of quantities of Compressed Tablets Barbital, Compressed Tablets Cinchophen, Compressed Tablets Phenobarbital and Sugar-Coated Tablets, Strychnine Sulph., which were adulterated and misbranded. The articles were labeled in part: (Bottle) "Compressed Tablets Barbital 5 Grains"; (bottle) "Compressed Tablets Cinchophen 5 Grains" and on another bottle "Compressed Tablets Cinchophen 7½ Grains"; (bottle) "Compressed Tablets Phenobarbital 1½ Grains"; (bottle) "Sugar-Coated Tablets Strychnine Sulph. 1/40 Grain Hance Bros. & White Incorporated Pharmaceutical Chemists Philadelphia Estab. 1855."

Analyses showed the barbital tablets contained 4.41 grains of barbital, corresponding to a shortage of 11.8 percent of the declared 5-grain tablet; that the 5-grain cinchophen tablets contained 4.37 grains of cinchophen, corresponding to a shortage of 12.6 percent of the declared 5-grain tablet; that the 7½-grain cinchophen tablets contained 6.43 grains of cinchophen, corresponding to a shortage of 14.3 percent of the declared 7½-grain tablet; that the 1½-grain phenobarbital tablets contained 1.36 grains of phenobarbital, corresponding to a shortage of 9.3 percent of the declared 1½-grain tablet; that the sugar-coated strychnine sulphate tablets (1/40-grain) contained 0.021 grain of strychnine sulphate, corresponding to a shortage of 16 percent of the declared 1/40-grain tablet.

The barbital tablets were alleged to be adulterated in that their strength and purity fell below the professed standard and quality under which they were sold, in that each tablet contained not more than 4.41 grains of barbital.

The cinchophen tablets were alleged to be adulterated in that their strength and purity fell below the professed standard and quality under which they were sold, with respect to the quantity thereof contained in the bottles which were labeled "Cinchophen 5 Grains", in that each of said tablets contained not more than 4.37 grains of cinchophen, with respect to the bottles which were labeled "Cinchophen 7½ Grains", that each of said tablets contained not more than 6.43 grains of cinchophen.

The phenobarbital tablets were alleged to be adulterated in that their strength and purity fell below the professed standard and quality under which they were sold, in that each tablet contained not more than 1.36 grains of phenobarbital.

The sugar-coated strychnine sulphate tablets were alleged to be adulterated in that their strength and purity fell below the professed standard and quality under which they were sold in that each of said tablets contained not more than 0.021 grain (1/48 grain) of strychnine sulphate.

The barbital tablets were alleged to be misbranded in that the statement borne on the bottle containing the article, to wit, "Tablets Barbital 5 Grains", was false and misleading, in that said tablets contained not more than 4.41 grains of barbital.

The cinchophen tablets were alleged to be misbranded in that the statement borne on one of said bottles containing said article, to wit, "Tablets Cinchophen 5 Grains", was false and misleading in that said tablets contained not more than 4.37 grains of cinchophen, and in that the statement borne on the other of said bottles, to wit, "Tablets Cinchophen 7½ Grains", was false and misleading in that the said tablets contained not more than 6.43 grains of cinchophen.

The phenobarbital tablets were alleged to be misbranded in that the statement borne on the bottle, to wit, "Tablets Phenobarbital 1½ Grains", was false and misleading in that each of said tablets contained not more than 1.36 grains of phenobarbital.

The sugar-coated strychnine sulphate tablets were alleged to be misbranded in that the statement borne on the bottle, to wit, "Tablets Strychnine Sulph. 1/40

Grain", was false and misleading, in that each of said tablets contained not more than 0.021 grain (1/48 grain) of strychnine sulphate.

On December 2, 1935, a plea of nolo contendere having been entered, the defendant was placed upon probation for 1 year.

M. L. WILSON, *Acting Secretary of Agriculture.*

25396. Misbranding of Roo-Mo-Rub. U. S. v. Roo-Mo-Rub Corporation and Herman H. Kronberg. Pleas of nolo contendere. Each defendant fined \$50 and placed upon probation for 1 year. (F. & D. no. 35977. Sample nos. 24218-B, 24519-B, 29609-B.)

Unwarranted curative and therapeutic claims were made for this article and its label did not bear a plain and conspicuous statement of its alcoholic content.

On November 18, 1935, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Roo-Mo-Rub Corporation, Philadelphia, Pa., and Herman H. Kronberg, alleging shipments by them in violation of the Food and Drugs Act as amended, in the period from on or about January 15, 1934, to February 8, 1935, from Philadelphia, Pa., to places in the State of New Jersey, of quantities of Roo-Mo-Rub which was misbranded. The article was labeled in part: (Bottle) "Roo-Mo-Rub Corp. Philadelphia, Pa."

Analysis showed that the article was a light amber solution consisting chiefly of alcohol, water, and methyl salicylate with a little coloring matter.

The article was alleged to be misbranded in that the label on the bottle bore, and a circular enclosed in the package contained, false and fraudulent statements that the article was effective as a treatment and remedy for aching feet, eruptions, rheumatism, sciatica, swollen and stiff joints, cutaneous conditions, inflammations due to outdoor exposure, burns, typhoid, pneumonia, scarlatina and other fever conditions, gout, erysipelas, mastitis, boils, carbuncles, inflammatory skin conditions, sore throat, bronchial and laryngeal cold, bronchitis, pains in lower limbs, lame shoulder, neuritis, pains in the knee joints and muscular rheumatism; effective to reduce swellings, soothe burns, keep cuts, wounds, and open sores free from infection, to relieve pain and suffering, rheumatic pains, and swollen glands, and to cleanse sores and pus cavities; effective as a treatment for suppurative sores and pus areas and all catarrhal conditions of mucous surfaces, and in scarlet, typhoid, and other fevers; effective to cool the skin, ease patient, and reduce temperature in typhoid, pneumonia, scarlatina, and other fever conditions; effective as beneficial to febrile and debilitated conditions, and to aid in reducing temperature in all febrile states; effective to quickly relieve pain, inflammation, swelling, and fever; and effective as an instant relief for headache and neuritis of the hands. The article was alleged to be further misbranded (a) in that the label on the package shipped on November 15, 1934, to Haddon Heights, N. J., failed to bear a statement as to the alcoholic content of the article; (b) and in that the labels on the packages shipped on January 2, 1935, to Haddon Heights, N. J., and on February 8, 1935, to Atlantic City, N. J., failed to bear plain and conspicuous statements as to the quantity of the alcoholic content of the article.

On December 5, 1935, pleas of nolo contendere having been entered, each defendant was fined \$50 and placed upon probation for 1 year.

M. L. WILSON, *Acting Secretary of Agriculture.*

25397. Adulteration and misbranding of Syrup Ephedrine. U. S. v. Chicago Pharmacal Co., a corporation. Plea of guilty. Fine, \$10, and costs awarded against defendant. (F. & D. no. 35981. Sample no. 35584-B.)

This article was inferior to its professed standard and its label bore erroneous statements.

On September 25, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Chicago Pharmacal Co., a corporation, Chicago, Ill., alleging shipment in violation of the Food and Drugs Act as amended on or about March 15, 1935, from Chicago, Ill., to Cincinnati, Ohio, of a quantity of Syrup Ephedrine which was adulterated and misbranded. The article was labeled in part: (Bottle) "No. 13 Syrup Ephedrine Alcohol 12% Each fluid ounce contains Ephedrine Sulphate 1 gr. * * * Chicago Pharmacal Co., Chicago."

Analysis of the article showed that each fluid ounce thereof contained less than 1 grain of ephedrine sulphate, namely, not more than 0.73 grain thereof per fluid ounce.

The article was alleged to be adulterated in that it fell below the professed standard and quality under which it was sold, in that each fluid ounce thereof contained not more than 0.73 grain of ephedrine sulphate.

The article was alleged to be misbranded in that the statement on the label, to wit, "Each fluid ounce contains Ephedrine Sulphate 1 gr.", was false and misleading in that each fluid ounce contained not more than 0.73 grain of ephedrine sulphate.

On January 6, 1936, a plea of guilty was entered, a fine of \$10 was imposed, and costs were awarded against the defendant.

M. L. WILSON, *Acting Secretary of Agriculture.*

25398. Misbranding of C N Dog Soap. U. S. v. West Disinfecting Co., a corporation. Plea of guilty. Defendant placed upon probation. (F. & D. no. 35982. Sample no. 22001-B.)

Unwarranted curative and therapeutic claims were made for this article.

On December 12, 1935, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the West Disinfecting Co., a corporation, Long Island City, N. Y., alleging shipment in violation of the Food and Drugs Act as amended, on or about January 4 and 16, 1935, from the County of Queens, N. Y., to Boston, Mass., and Newark, N. J., respectively, of quantities of C N Dog Soap which was misbranded. The article was labeled in part: "C N Dog Soap A West Guaranteed Product West Disinfecting Co., Long Island City, N. Y."

Analysis showed that the article consisted of soap, water, glycerin, coal tar, neutral oils, phenol, and zinc oxide.

The article was alleged to be misbranded in that the statements and designs on the label of the carton were false and fraudulent representations that the article contained ingredients or medicinal agents effective, among other things, as a "protection against * * * infection."

The information further charged misbranding of the product and certain other products under the Insecticide Act of 1910 reported in notice of judgment no. 1452 published under that act.

On January 24, 1936, a plea of guilty was entered and a fine of \$100 was imposed on two counts of the information. Sentence was suspended on the remaining counts which included the charges under the Food and Drugs Act, and the defendant was placed on probation.

M. L. WILSON, *Acting Secretary of Agriculture.*

25399. Misbranding of Dr. Ehrlich's Nerve Tonic and Sedative, Dr. Ehrlich's Tonic and Blood Purifier, and Dr. Ehrlich's Kidney and Bladder Medicine. U. S. v. K. W. Drug Co., a corporation, Bert L. Klein, Otis C. Altfeld, and Louis B. Weinberger. Pleas of nolo contendere. Fine, \$75 and costs. (F. & D. no. 35985. Sample nos. 23254-B, 23255-B, 23256-B.)

Unwarranted curative and therapeutic claims were made for these articles.

On November 22, 1935, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the K. W. Drug Co., a corporation, Cleveland, Ohio, and Bert L. Klein, Otis C. Altfeld, and Louis B. Weinberger, alleging shipment by them in violation of the Food and Drugs Act as amended, on or about February 15, 1935, from Cleveland, Ohio, to Cedar Rapids, Iowa, of quantities of Dr. Ehrlich's Nerve Tonic and Sedative, Dr. Ehrlich's Tonic and Blood Purifier, and Dr. Ehrlich's Kidney and Bladder Medicine which were misbranded. The articles were labeled in part: (Bottle) "Dr. Ehrlich's Nerve Tonic and Sedative * * * Price, \$5.00 a bottle Dr. Ehrlich's Laboratory Cleveland, Ohio"; (bottle) "Dr. Ehrlich's Tonic and Blood Purifier * * * Price \$5.00 a bottle"; (bottle) "Dr. Ehrlich's Kidney and Bladder Medicine * * * Price \$5.00 a bottle."

Analyses showed that the nerve tonic and sedative contained chiefly sodium and ammonium bromide and phenobarbital; that the tonic and blood purifier contained chiefly plant extractive, hexamethylenamine, organic iron, sugar, and potassium iodide; and that the kidney and bladder medicine contained chiefly hexamethylene tetramine and emodin-bearing drugs.

The nerve tonic and sedative was alleged to be misbranded in that the label on the bottle bore false and fraudulent statements that the article was effective, among other things, as a nerve tonic; effective to restore and strengthen the

entire nervous system, soothe the nerves, and induce healthy, invigorating rest and sleep; and effective to tone the stomach muscles, to create vigorous appetite and proper digestion; to remove the feeling of tiredness and listlessness, and to instill new vim and vigor.

The tonic and blood purifier was alleged to be misbranded in that the label of the bottle bore false and fraudulent statements that the article was effective, among other things, as a blood purifier; effective as a blood, nerve, and system tonic; and effective to have a distinct action upon the bowels, kidneys, and bladder, to relieve rheumatism, neuritis, and backaches, to create appetite, and to aid digestion.

The kidney and bladder medicine was alleged to be misbranded in that the label of the bottle bore false and fraudulent statements that the article was effective, among other things, as a kidney and bladder medicine, to purify, increase, and regulate the flow of urine, to strengthen weak muscles, to help eliminate the body poisons, to restore the kidneys and bladder to their proper functions, and to bring back bodily health.

On March 27, 1936, pleas of nolo contendere were entered, and the court imposed a fine totaling \$75 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

25400. Adulteration and misbranding of intramuscular ampoules and intravenous ampoules. U. S. v. Irving W. Narson and Albert D. Fainland, copartners, trading as Ethko Chemical Products Co. Pleas of guilty. Each defendant fined \$4,400, and execution of sentence as to \$4,200 of the amount suspended. (F. & D. no. 36001. Sample nos. 21016-B to 21019, incl., 21482-B, 21485-B, 21488-B, 21491-B, 21851-B to 21854-B, incl.)

These articles were sold under various professed standards; and with respect to all but two of the shipments referred to herein it was alleged by the Government that the articles failed to conform to such standards. The labels of the articles in all the shipments bore erroneous statements as to the amounts of their ingredients.

On February 7, 1936, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Irving W. Narson and Albert D. Fainland, copartner, trading as Ethko Chemical Products Co., New York, N. Y., alleging shipments by them, in violation of the Food and Drugs Act as amended, in the period from December 6, 1934, to February 23, 1935, from New York, N. Y., to Newark, N. J., of quantities of intramuscular ampoules and intravenous ampoules which were both adulterated and misbranded. The articles were labeled in part: (Box and ampoule) "Intramuscular Ampoules * * * 1 cc. Intramuscular Iron Citrate 1 gr. * * * 6.5 ct. grams * * * Made To a Standard—Not a price Ethko Chemical Products Co. New York City"; (box and ampoule) "Intravenous Ampoules * * * 10 cc Intravenous sodium iodide 15½ grs."; (box and ampoule) "Intravenous Ampoules * * * 5 c.c. Intravenous Calcium Chloride 4 Grains"; (box and ampoule) "Intravenous Ampoules * * * Dextrose and Sodium Chloride Dextrose 50% Sodium Chloride 30% 10 c.c."; (box and ampoule) "Intravenous Ampoules 10 c.c. Methenamine 2 gms."; (box and ampoule) "Intramuscular Ampoules * * * 2 cc Caffeine Sodio Benzoate 7½ gr."; (box and ampoule) "Intravenous Ampoules * * * Sodium Thiosulphate 15 grs. 10 c.c."; (box and ampoule) "Intravenous Ampoules * * * Sodium Salicylate and Iodide Sod. Salicylate 15½ grs. Sod. Iodide 15½ grs. 20 c.c."; (box and ampoule) "Intravenous Ampoules Sodium Salicylate & Iodide with Colchicine 20 cc. Sod. Salicylate 15½ grs. Sod. Iodide 15½ grs. Colchicine 1/100 gr."; (box and ampoule) "Intravenous Ampoules 20 cc Sodium Iodide 31 grains"; (box and ampoule) "Intramuscular Ampoules 1 cc Sodium Cacodylate 1 gr."; (box and ampoule) "Intravenous Ampoules 10 c.c. Iodo-Hexamine Hexamethylenamine 12 grs. Sodium Iodide 7½ grs. Distilled Water, q.s. 10 cc."

The ampoules of sodium iodide were alleged to be adulterated in that their strength and purity differed from the standard under which they were sold, in that each 10 cubic centimeters of the article contained more than 15½ grains of sodium iodide, namely, 18.2 grains thereof.

The ampoules of calcium chloride were alleged to be adulterated in that their strength and purity differed from the standard under which they were sold in that each 5 cubic centimeters of said article contained less than 4 grains of calcium chloride, namely, 3.49 grains thereof.

The ampoules of dextrose and sodium chloride were alleged to be adulterated in that their strength and purity differed from the standard under which they

were sold in that they contained less than 50 percent of dextrose and less than 80 percent of sodium chloride, namely, not more than 27.9 percent of dextrose and not more than 14.8 percent of sodium chloride.

The ampoules of methenamine were alleged to be adulterated in that their strength and purity differed from the standard under which they were sold, in that each 10 cubic centimeters of said article did not contain 2 grams of methenamine but did contain a lesser amount thereof, namely, not more than 1.77 grams.

The ampoules of caffeine sodio-benzoate were alleged to be adulterated in that their strength and purity differed from the standard under which they were sold, in that each 2 cubic centimeters of said article contained more than $7\frac{1}{2}$ grains of caffeine sodium benzoate, namely, not less than 8.21 grains thereof.

The ampoules of sodium thiosulphate were alleged to be adulterated in that their strength and purity differed from the standard under which they were sold, in that each 10 cubic centimeters of said article contained more than 15 grains of sodium thiosulphate, namely, 16.13 grains of sodium thiosulphate.

The ampoules of sodium salicylate and iodide with colchicine were alleged to be adulterated in that their strength and purity differed from the standard under which they were sold, in that each 20 cubic centimeters of said article contained more than $15\frac{1}{2}$ grains of sodium salicylate and more than $15\frac{1}{2}$ grains of sodium iodide, namely, from 16.8 grains to 30.5 grains of sodium salicylate and from 18.6 grains to 31.5 grains of sodium iodide.

The ampoules of sodium iodide were alleged to be adulterated in that their strength and purity differed from the standard under which they were sold, in that the article contained, in addition to sodium iodide, another drug ingredient, namely, 1.1 grain of sodium thiosulphate to each 20 cubic centimeters of the article.

The ampoules of sodium cacodylate were alleged to be adulterated in that their strength and purity differed from the standard under which they were sold, in that each one cubic centimeter of said article did not contain 1 grain of sodium cacodylate but did contain a less amount, namely, not more than 0.39 grain thereof.

The Ampoules Iodo-Hexamine were alleged to be adulterated in that their strength and purity differed from the standard under which they were sold, in that said article contained more than $7\frac{1}{2}$ grains of sodium iodide in each 10 cubic centimeters of said article, namely, not less than 7.7 grains nor more than 8.5 grains thereof.

The ampoules of iron citrate were alleged to be misbranded in that the statement borne on said box and ampoules, to wit, "Iron Citrate", was false and misleading, in that said article was not iron citrate but was iron and ammonium citrate.

The ampoules of sodium iodide were alleged to be misbranded in that the statement borne on the box, to wit, "10 cc * * * Sodium Iodide $15\frac{1}{2}$ grs.", and the statement borne on each of said ampoules, to wit, "10 cc * * * Sodium Iodide $15\frac{1}{2}$ grains", were false and misleading, in that the amount of sodium iodide in each 10 cubic centimeters of said article was more than $15\frac{1}{2}$ grains, namely, 18.2 grains thereof.

The ampoules of calcium chloride were alleged to be misbranded in that the statement borne on the box and on each of the ampoules, to wit, "5 c. c. * * * Calcium Chloride 4 Grains", was false and misleading, in that each 5 cubic centimeters of said article did not contain 4 grains of calcium chloride, but did contain a lesser amount thereof, namely, not more than 3.49 grains.

The ampoules of dextrose and sodium chloride were alleged to be misbranded in that the statement borne on the box and the ampoules, to wit, "Dextrose 50% Sodium Chloride 30%", was false and misleading, in that said article contained less than 50 percent of dextrose and less than 30 percent of sodium chloride, namely, not more than 27.9 percent of dextrose and not more than 14.8 percent of sodium chloride.

The ampoules of methenamine were alleged to be misbranded in that the statement borne on the box and on the ampoules, to wit, "10 c. c. * * * Methenamine 2 Gms.", was false and misleading, in that each 10 cubic centimeters of said article contained not more than 1.77 grams of methenamine to each 10 cubic centimeters.

The ampoules of caffeine sodio-benzoate were alleged to be misbranded in that the statement borne on the box and ampoules, to wit, "2 cc * * * Caffeine Sodio Benzoate $7\frac{1}{2}$ gr.", was false and misleading, in that each 2

cubic centimeters of said article contained more than $7\frac{1}{2}$ grains of caffeine sodium benzoate, namely, not less than 8.21 grains thereof.

The ampoules of sodium thiosulphate were alleged to be misbranded in that the statement borne on the ampoules, to wit, "10 c. c. * * * Sodium Thio-sulphate 15 grs.", was false and misleading, in that each 10 cubic centimeters of the article contained more than 15 grains of sodium thiosulphate, namely, not less than 16.13 grains thereof.

The ampoules of sodium salicylate and sodium iodide were alleged to be misbranded in that the statements borne on the box and ampoules, to wit, "Sodium Salicylate and Iodide Sod. Salicylate * * * Sod. Iodide", were false and misleading, in that the article also contained an undeclared ingredient, namely, sodium citrate in the amount of 6 grains to each 20 cubic centimeters of said article.

The ampoules of sodium salicylate and sodium iodide with colchicine were alleged to be misbranded in that the statements borne on the box and ampoules, to wit, "20 cc * * * Sod. Salicylate $15\frac{1}{2}$ grs. Sod. Iodide $15\frac{1}{2}$ grs.", were false and misleading, in that each 20 cubic centimeters of said article contained more than $15\frac{1}{2}$ grains of sodium salicylate and more than $15\frac{1}{2}$ grains of sodium iodide, namely, from 16.8 grains to 30.5 grains of sodium salicylate and from 18.6 grains to 31.5 grains of sodium iodide.

The ampoules of sodium iodide were alleged to be misbranded in that the statement borne on the box and ampoules, to wit, "20 cc * * * Sodium Iodide 31 grains", was false and misleading, in that said article did not consist solely of sodium iodide but contained, in addition, 1.1 grain of sodium thio-sulphate to each 20 cubic centimeters of the article, and the volume of the contents of each of said ampoules was not 20 cubic centimeters, but less.

The ampoules of sodium cacodylate were alleged to be misbranded in that the statement borne on the box and on the ampoules, to wit, "1 cc * * * Sodium Cacodylate 1 gr.", was false and misleading, in that each 1 cubic centimeter of said article contained less than 1 grain of sodium cacodylate, namely, not more than 0.39 grain thereof.

The Ampoules Iodo-Hexamine were alleged to be misbranded in that the statement borne on the box and ampoules, to wit, "10 c. c. * * * Sodium Iodide $7\frac{1}{2}$ grs.", was false and misleading in that the said article contained more than $7\frac{1}{2}$ grains of sodium iodide, namely, not less than 7.7 grains nor more than 8.5 grains thereof to each 10 cubic centimeters.

On February 13, 1936, pleas of guilty having been entered, each defendant was fined \$4,400 and execution of sentence as to \$4,200 of the amount was suspended.

M. L. WILSON, *Acting Secretary of Agriculture.*

25401. Adulteration of atropine sulphate hypodermic tablets and strychnine sulphate hypodermic tablets. U. S. v. The Tilden Co., a corporation. Plea of nolo contendere. Fine, \$600 and costs. (F. & D. no. 36039. Sample nos. 28354-B, 28356-B.)

Each of these articles failed to conform to its professed standard and quality.

On December 5, 1935, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Tilden Co., a corporation, St. Louis, Mo., alleging shipment in violation of the Food and Drugs Act as amended, on or about May 10, 1935, from St. Louis, Mo., to Wilson, Ark., of quantities of Hypodermic Tablets Atrophine Sulphate and Hypodermic Tablets Strychnine Sulphate which were adulterated. The articles were labeled in part: (Bottle) "* * * Atropine Sulphate 1-100 Gr. * * *"; (bottle) "* * * Strychnine Sulphate 1-40 Gr. * * *".

Analyses showed that the atropine sulphate hypodermic tablets contained 0.0076 grain of atropine sulphate per tablet; and that the strychnine sulphate hypodermic tablets contained 0.0211 grain of strychnine sulphate per tablet.

The atropine sulphate hypodermic tablets were alleged to be adulterated in that they fell below the professed standard and quality under which they were sold, in that each tablet contained less than one one-hundredth of a grain of atropine sulphate.

The strychnine sulphate hypodermic tablets were alleged to be adulterated in that they fell below the professed standard and quality under which they were sold in that each tablet contained less than one-fortieth of a grain of strychnine sulphate.

On January 3, 1936, a plea of *nolo contendere* was entered, a fine of \$600 was imposed, and costs were awarded against the defendant.

M. L. WILSON, *Acting Secretary of Agriculture.*

25402. Misbranding of Obegyne (formerly, Medogyn Hygienic Vaginal Jelly). U. S. v. Dayton Laboratories, Inc., a corporation. Plea of guilty. Fine, \$50. (F. & D. no. 36045. Sample no. 32985-B.)

Unwarranted curative and therapeutic claims were made for this article and its label bore erroneous statements.

On January 22, 1936, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Dayton Laboratories, a corporation, Dayton, Ohio, alleging shipment in violation of the Food and Drugs Act as amended, on or about March 7, 1935, from Dayton, Ohio, to Kansas City, Mo., of quantities of Obegyne (formerly, Medogyn Hygienic Vaginal Jelly) which was misbranded. The article was labeled in part: (Jar) "Hygienic Vaginal Jelly To Be Used with Obegyne Applicator * * * Prepared Only By Dayton Laboratories, Inc. Dayton, Ohio."

Analysis showed that the article consisted chiefly of water, glycerine, gum tragacanth, lactic acid, a quinine compound, hydroxyquinoline, and small amounts of resorcinol and zinc compound. It was found upon examination that the article was not a germicide when used as directed, nor did it have positive germicidal action.

The article was alleged to be misbranded (a) in that the label on the jar and a circular enclosed in the package bore and contained false and fraudulent statements that the article was effective, among other things, as a treatment, remedy, and cure for pelvic congestion, leucorrhea, vaginitis, cervicitis, and gonorrhea, and as a prophylactic for gonorrhea and syphilis; and (b) in that a certain circular enclosed in the package contained false and misleading statements, as follows, to wit, "positively germicidal within 60 seconds after contact", "Positively germicidal", "positive germicidal action * * * It almost instantly destroys the hardiest of germ life, but even the extremely resistant spores", and "The exceptional * * * germicidal properties of Obegyne * * * not be referred to as a powerful germicide, for although it is most effective in this capacity, its value results from its ability to harmlessly dissolve protein matter (of which bacteria are largely composed)."

On February 3, 1936, a plea of guilty having been entered, a fine of \$50 was imposed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25403. Adulteration and misbranding of No. 610 Cough No. 2 tablets and No. 1192 Opium and Lead No. 1 tablets. U. S. v. Chicago Pharmacal Co., a corporation. Plea of guilty. Fine, \$40. (F. & D. no. 36046. Sample nos. 32239-B, 32240-B.)

These articles failed to conform to their professed standards and their labels bore erroneous statements concerning the quantities of their ingredients.

On November 13, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Chicago Pharmacal Co., a corporation, Chicago, Ill., alleging shipment by it in violation of the Food and Drugs Act as amended, on or about January 26, 1935, from Chicago, Ill., to Muskegon Heights, Mich., of a certain quantity of No. 610 Cough No. 2 tablets and No. 1192 Opium and Lead No. 1 tablets which were both adulterated and misbranded. The articles were labeled in part: (Bottle) "No. 610 Cough No. 2 Each Tablet Contains Morphine Sulphate 1/32 gr. Phosphorus 1/500 gr. Sanguinaria Sp. Tr. 1/2 min. Tartar Emetic 1/100 gr."; (bottle) "No. 1192 Opium and Lead No. 1 Opium Powd 1/4 gr. Lead Acetate 1/2 gr."

The No. 610 Cough No. 2 tablets were alleged to be adulterated in that their strength and purity fell below the standard and quality under which they were sold, in that each of said tablets contained less than one thirty-second of a grain of morphine sulphate, namely, not more than 0.024 (approximately one-fortieth) grain thereof.

The No. 1192 Opium and Lead No. 1 tablets were alleged to be adulterated in that their strength and purity fell below the professed standard and quality under which they were sold, in that each of said tablets contained less than one-fourth of a grain of powdered opium, namely, not more than 0.033 (approximately one-thirtieth) grain thereof.

The No. 610 Cough No. 2 tablets were alleged to be misbranded in that the bottle label contained the statement, to wit, "Each Tablet Contains Morphia Sulphate 1-32 gr.", and that said statement was false and misleading, in that each of said tablets contained less than one thirty-second of a grain of morphine sulphate, namely, not more than 0.024 (approximately one-fortieth) grain thereof.

The No. 1192 Opium and Lead No. 1 tablets were alleged to be misbranded in that the statement borne on the label attached to the bottle, to wit, "Opium Powd. $\frac{1}{4}$ gr.", was false and misleading, in that each of said tablets contained less than one-fourth of a grain of powdered opium, namely, not more than 0.033 (approximately one-thirtieth) grain thereof.

On February 5, 1936, a plea of guilty having been entered, a fine of \$40 was imposed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25404. Misbranding of Luseaux Lu-So Nicotine Special. U. S. v. Oscar P. Luse, trading as the Luseaux Laboratories. Plea of nolo contendere. Fine, \$50. (F. & D. no. 36083. Sample no. 12484-B.)

Unwarranted curative and therapeutic claims were made for this article.

On February 11, 1936, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Oscar P. Luse, trading as the Luseaux Laboratories, Los Angeles, Calif., alleging shipment by him in violation of the Food and Drugs Act as amended, on or about September 24, 1934, from Los Angeles, Calif., to Tucson, Ariz., of a quantity of Luseaux Lu-So Nicotine Special which was misbranded. The article was labeled in part: (Package) "Luseaux Lu-So Nicotine Special * * * The Luseaux Laboratories 1740-44 West 50th St. Los Angeles, California."

Analysis showed that the article contained 5.6 percent of nicotine alkaloid, the balance consisting of inert matter, chiefly inorganic.

Misbranding of the article was charged under the allegation that the label of the package and a circular enclosed in the package bore and contained statements concerning the curative or therapeutic efficacy of the article, and that said statements were false and fraudulent, to wit, that the article was effective, among other things, as a vermicide for all animals; effective as a "toning value" in all livestock feeding; effective for worm elimination and control; effective as a cure for worms; effective to kill worms; effective to revive digestive processes and to restore vigor; effective to eliminate dead worms; effective as a treatment, remedy, and cure for coccidiosis; and effective to kill intestinal parasites and micro-organisms, and to heal inflamed and bleeding mucous linings.

On April 6, 1936, a plea of nolo contendere having been entered, a fine of \$50 was imposed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25405. Misbranding of Dr. Grabill's Prescription No. 1313. U. S. v. 10 Cartons of Dr. Grabill's Prescription No. 1313. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36316. Sample no. 32654-B.)

The label on this article bore incorrect statements and unwarranted curative and therapeutic claims.

On September 12, 1935, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel, and on December 20, 1935, an amended libel, praying seizure and condemnation of a quantity of Dr. Grabill's Prescription No. 1313, at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about August 6, 1935, by Maison Laboratories, from Cleveland, Ohio, to St. Louis, Mo., charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Carton) "Dr. Grabill's Prescription No. 1313 * * * Hi-Test Laboratories, Cleveland, Ohio."

Analysis showed that the article consisted of tablets, each containing 7.71 grains of cinchophen. (Cinchophen is a dangerous drug causing destruction of the liver.)

The article was alleged to be misbranded in that the following statements appearing upon the carton were false and misleading, in that they created the impression that when taken in accordance with the directions, the article was

a harmless remedy for the disease conditions mentioned when, in fact, it was a harmful and dangerous preparation: "Recommended for the Prompt Relief of Rheumatism, Sciatica, Neuralgia, Lumbago, Sore Muscles, Neuritis, Arthritis, Gout, etc. Assists in the elimination of acid poisons and uric acid which is the cause of most rheumatism and painful ailments. 'Contains No Narcotics And Are Not Habit Forming' Prescribed by Leading Physicians, Directions. Two tablets after each meal and at bedtime. Swallow with a large glass of water in which a half teaspoonful of baking soda has been dissolved. Decrease dose to one tablet as the condition improves." Misbranding was further alleged in that the aforesaid statements were false and fraudulent, in that they created the impression that the article was a harmless remedy for the disease conditions mentioned, and that the drug possessed certain curative and therapeutic efficacy when, in fact, it did not possess such efficacy and was a harmful and dangerous preparation.

On January 16, 1936, no claimant having appeared, a default decree of condemnation, forfeiture and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25406. Misbranding of BP Prescription. U. S. v. 312 Bottles of BP Prescription. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36365. Sample no. 10182-B.)

Unwarranted therapeutic and curative claims were made for this article.

On September 24, 1935, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 312 bottles of BP Prescription at Fort Worth, Tex., alleging that the article had been shipped in interstate commerce on or about May 20, August 1, and August 8, 1935, by the DePree Co., of Holland, Mich., from that place to Fort Worth, Tex., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Bottle) "BP Prescription * * * For the relief of symptoms popularly believed to arise as a result of impurities of the blood."

Analysis showed that the article consisted essentially of potassium iodide, extracts of plant drugs including a laxative drug, alcohol, sugar, and water.

Misbranding was charged under the allegation that the label on the bottles bore the following statements, and that said statements were false and fraudulent, to wit, "BP Prescription * * * For the relief of symptoms popularly believed to arise as a result of impurities of the blood."

On February 8, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25407. Misbranding of E. O. Clark's Famous Liquid Formula No. 6. U. S. v. 22 Cans of E. O. Clark's Famous Liquid Formula No. 6. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36952. Sample no. 27950-B.)

Unwarranted curative and therapeutic claims were made for this article.

On November 4, 1935, the United States attorney for the Eastern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of eleven 32-ounce and eleven 10-ounce cans of E. O. Clark's Famous Liquid Formula No. 6 at Millstadt, Ill., alleging that the article had been shipped in interstate commerce on or about October 4, 1935, by Clark Remedies Co., Kokomo, Ind., from that place to Millstadt, Ill., and charging misbranding in violation of the Food and Drugs Act. The article, both the 32-ounce and the 10-ounce cans, was labeled in part: (Cans) "Famous Liquid Formula No. 6."

Analysis showed that the article consisted essentially of a small proportion of a plant drug such as kamala in a mixture of mineral oil (54 percent), carbon tetrachloride (11 percent), turpentine oil, sassafras oil, and water.

The article was alleged to be misbranded in that the following statements upon the packages were statements regarding the curative and therapeutic effects of the article and were false and fraudulent: (32-ounce size) "E. O. Clark's Famous Liquid Formula No. 6 For Fowls and Turkeys Affected with Round Worms (Ascaridia), Tape Worms, Gizzard and Pin Worms * * * Symptoms: Pullets get pale or weak, go light, drop their wings, tips of combs turn dark. In advance stages where pullets were not treated every month,

they get gray eyes, go blind and become paralyzed. Fowls always have some worms hence this remedy is recommended to be given regularly. * * * The efficiency of worm remedies depends on the vitality of the fowls, therefore we recommend that you treat before the birds get too badly infested"; (10-ounce size) "Famous Liquid Formula No. 6 For Fowls and Turkeys Affected with Round Worms (ascaridia) and Tape Worms, Gizzard and Pin Worms Also for Hogs, Dogs, Rabbits and Cats * * * Symptoms. Pullets get pale or weak, go light, drop their wings, tips of combs turn dark. In advanced stages where pullets are not treated every month, they get gray eyes, go blind and become paralyzed. Fowls always have some worms hence this remedy is recommended to be given regularly. * * * The efficiency of worm remedies depends on the vitality of the fowls, therefore we recommend that you treat before the birds get too badly infested."

On January 13, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25408. Misbranding of Dr. G. B. Williams Pills. U. S. v. 12 Dozen Bottles of Dr. G. B. Williams Pills. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36593. Sample no. 48533-B.)

Unwarranted curative and therapeutic claims were made for this article.

On November 6, 1935, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 12 dozen bottles of Dr. G. B. Williams Pills at Tampa, Fla., alleging that the article had been shipped in interstate commerce on or about October 19, 1935, by the Interstate Drug Co., from Quitman, Ga., into the State of Florida, and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Bottle) "Recommended for biliousness."

Analysis showed that the article consisted essentially of compounds of mercury and antimony and ingredients derived from plant drugs including aloe, podophyllum, and an alkaloidal drug.

The article was alleged to be misbranded in that the following statements appearing upon and within the package of the article were statements regarding the curative and therapeutic effects of the article and were false and fraudulent: (Bottle label) "Recommended for * * * biliousness, * * * Dose: 1 to 3 every other night at bedtime; children under ten years old, one-half pill in honey or syrup"; (carton) "Recommended for the relief of discomfort due to Biliousness, * * * or any Liver disorder."

On January 15, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25409. Misbranding of Lur-Eye Lash Developer. U. S. v. 134 Tubes of Lur-Eye Lash Developer. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36599. Sample no. 48525-B.)

Unwarranted curative and therapeutic claims were made for this article.

On November 5, 1935, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 134 tubes of Lur-Eye Lash Developer at Atlanta, Ga., alleging that the article had been shipped in interstate commerce on or about September 20, 1935, by Lur-Eye Products, Inc., from New York, N. Y., into the State of Georgia, and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Tube) "Lur-Eye Lash Developer."

Analysis showed that the article consisted essentially of 1.3 percent of volatile oils including methyl salicylate and thymol, incorporated in white petrolatum.

The article was alleged to be misbranded in that the following statements appearing on the package were statements regarding the curative and therapeutic effects of the article and were false and fraudulent: (Carton wrapper) "Apply 'Lur-Eye' each night. It will not only develop your lashes—it will relieve tired bloodshot or inflamed eyes and granulated lids."

On February 1, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25410. Adulteration and misbranding of Anocaine Extractotubes. U. S. v. 11 Boxes of Reliance Blue Diamond Anocaine Extractotubes, and another libel proceeding against the same article. Default decree of condemnation, forfeiture, and destruction in each case. (F. & D. nos. 36657, 36789. Sample nos. 44954-B, 44965-B, 44966-B.)

The label of this article bore erroneous statements concerning the quantity of one of its ingredients.

On November 21 and December 16, 1935, the United States attorney for the Southern District of Ohio, acting upon reports by the Secretary of Agriculture, filed in the district court on each of said dates a libel praying seizure and condemnation of certain boxes of Reliance Blue Diamond Anocaine Extractotubes at Cincinnati, Ohio, alleging that the article had been shipped in interstate commerce, on or about October 4, 1935, with respect to the libel filed November 21, 1935, and on September 19 and October 28, 1935, with respect to the libel filed on December 16, 1935, by the Reliance Dental Manufacturing Co., Chicago, Ill., from that place to Cincinnati, Ohio, and charging adulteration in the libel filed on November 21, 1935, and both adulteration and misbranding in the libel filed on December 16, 1935, in violation of the Food and Drugs Act. The article was labeled in part: (Box) "Reliance Blue Diamond Anocaine Extractotubes * * * Each cc contains Procaine Hydrochloride .02 gms."

Adulteration of the article was charged in each of the libels under the allegation that its strength fell below the professed standard under which it was sold, namely, "Each cc contains Procaine Hydrochloride .02 gms."

Misbranding was charged in the libel filed on December 16, 1935, under the allegation that the statement on the label, to wit, "Each cc Contains Procaine Hydrochloride .02 gms.", was false and misleading.

On December 23, 1935, no claimant having appeared in either case, a default decree of condemnation, forfeiture, and destruction was entered in each.

M. L. WILSON, *Acting Secretary of Agriculture.*

25411. Misbranding of Witch Hazel Double Distilled N. F. U. S. v. 1,296 Bottles of Witch Hazel Double Distilled N. F. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36666. Sample no. 44027-B.)

Unwarranted therapeutic and curative claims were made for this article and its label bore an erroneous statement concerning the weight of the contents of its bottle container.

On November 27, 1935, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,296 bottles of Witch Hazel Double Distilled N. F. at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about October 26, 1935, by the Purepac Corporation, from New York, N. Y., into the State of Massachusetts, and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Bottle) "Witch Hazel Double Distilled N. F. * * * Atlas Drug & Chemical Co., Inc. New York."

Analysis showed that the article was distilled extract of witch hazel and that the volume of contents of the bottle was less than 16 ounces.

Misbranding of the article was charged (a) under the allegation that its label bore the statement, to wit, "Net contents 16 fluid oz.", and that said statement was false and misleading; (b) under the allegation that the label of the article bore the statement and that the statement was false and fraudulent, to wit: "For the relief of * * * wounds, painful swellings, lame back, piles, sore throat, neuralgia, rheumatism, * * * etc."

On March 16, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25412. Misbranding of witch hazel. U. S. v. 78 Dozen Bottles of Witch Hazel. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36669. Sample nos. 44028-B, 44029-B, 44030-B.)

Unwarranted curative and therapeutic claims were made for this article.

On November 27, 1935, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 78 dozen bottles of witch hazel at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about October 26, 1935, by Fallis, Inc., from New York, N. Y., into the

State of Massachusetts, and charging misbranding in violation of the Food and Drugs Act.

Analysis showed that the article consisted of a distilled extract of witch hazel.

The article was alleged to be misbranded in that the statement on the label, to wit, "A valuable local remedy and indicated for the relief of rheumatism, * * * piles, etc.", was a statement regarding the curative or therapeutic effect of the article and was false and fraudulent.

On December 30, 1935, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25413. Misbranding of Blackstone's Tru Laxative Bromides Quinine Cold Tablets. U. S. v. 136 Dozen Bottles of Blackstone's Tru Laxative Bromides Quinine Cold Tablets. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36687. Sample no. 51942-B.)

Unwarranted curative and therapeutic claims were made for this article and its label bore erroneous statements.

On December 3, 1935, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 136 dozen bottles of Blackstone's Tru Laxative Bromides Quinine Cold Tablets at Erie, Pa., alleging that the article had been shipped in interstate commerce in or about November 1930, by the Blackstone Manufacturing Co., from Newark, N. J., to Erie, Pa., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Carton) "For Your Health's Sake A True Assistant For * * * Coughs * * * and * * * for La Grippe."

Analysis showed that the article consisted essentially of acetanilid (1.4 grain per tablet), quinine dihydrobromide (0.96 grain per tablet), and aloes.

The article was alleged to be misbranded (a) in that the statement appearing in the circular [enclosed in the package], to wit, "Quinine in this form does not affect the head", was false and misleading; (b) in that the following statements appearing upon and within the package were statements regarding the curative or therapeutic effect of the article and were false and fraudulent: (Carton) "For Your Health's Sake A True Assistant for * * * Coughs * * * and La Grippe * * * For * * * La Grippe"; (box) "For * * * La Grippe * * * These tablets are an ideal preparation for * * * coughs * * * and the grippe. The second or third dose will alleviate the feverish conditions. * * * Take the tablets sufficiently * * * until relief sets in * * * until relieved"; (circular) "For * * * La Grippe * * * These tablets are an ideal preparation for * * * Coughs * * * and the La Grippe. The second or third dose will alleviate the feverish conditions * * * Take the tablets until * * * relief sets in * * * until relieved. [Similar statements in foreign languages]."

On January 7, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25414. Misbranding of Tru-Lax. U. S. v. 26 Dozen Boxes of Tru-Lax. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36689. Sample no. 51944-B.)

Erroneous statements were borne on the label of this article and unwarranted curative and therapeutic claims were made for it.

On December 3, 1935, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 26 dozen boxes of Tru-Lax at Erie, Pa., alleging that the article had been shipped in interstate commerce in or about November 1930, by the Blackstone Manufacturing Co., from Newark, N. J., to Erie, Pa., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Carton and coupon) "Nature's True Assistant for Constipation * * * Nature's True Laxative * * * The True Chocolate Laxative."

Analysis showed that the article consisted essentially of phenolphthalein (1.7 grain per tablet) and chocolate which was worm-eaten and contained wormy excreta.

The article was alleged to be misbranded (a) in that the statement appearing upon the carton, box, wrapper, and coupon, to wit, "The True Chocolate Laxative", was false and misleading in that the article was not a chocolate laxative

but was a wormy phenolphthalein laxative; (b) in that the statement appearing on the carton, to wit, "Nature's True Assistant for Constipation", and the statement appearing on the coupon, to wit, "Nature's true laxative", were false and misleading, since phenolphthalein is not a naturally occurring product; and (c) in that the following statements appearing upon the package were statements regarding the curative or therapeutic effect of the article and were false and fraudulent: (Display carton) "For Your Stomach's Sake"; (coupon) "It helps nature to keep you well. * * * Makes your system sweet and clean. When you are troubled with Sleeplessness, Sour Stomach, Jaundice, Indigestion, * * * Bad Breath, Gas, Headache, Loss of Appetite, Biliousness or Distress after Eating, you should eat Tru-Lax * * * Tru-Lax acts * * * without the distressing after-effects experienced with other laxatives. Tru-Lax is the ideal form of laxative for invalids and very weak patients. The system receives Tru-Lax without becoming upset or irritated. True-Lax helps to keep the little folks well, with rosy cheeks and bright eyes. True-Lax for yourself will help you work better, keep you fit—your brain clear and active. It will eliminate the impurities your body does not desire. * * * helps Nature work right tomorrow feel bright * * * Keep them Well and Happy."

On January 7, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25415. Adulteration and misbranding of Lubrol. U. S. v. 32 Packages of Lubrol. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36754. Sample no. 41773-B.)

This article failed to conform to the standard under which it was sold, unwarranted curative and therapeutic claims were made for it, and its label bore erroneous statements as to its potency as a germicide.

On December 9, 1935, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of certain packages of Lubrol at Birmingham, Ala., alleging that the article had been shipped in interstate commerce on or about October 29, 1935, by Atlas Laboratories, from Akron, Ohio, to Birmingham, Ala., and charging both adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Circular) "Germicide * * * Boric Acid 5%."

Analysis showed that the article consisted essentially of water, boric acid (1.19 percent), Irish moss, glycerin, starch, lactic acid, and a small amount of oxyquinoline sulphate; and a bacteriological examination showed that the article was incapable of destroying *Staphylococcus aureus* in 1 hour.

The article was alleged to be adulterated in that its strength fell below the professed standard and quality under which it was sold, namely: (Circular) "Germicide * * * Boric Acid 5%."

The article was alleged to be misbranded in that the following statements appearing in the circular were false and misleading: "Germicide", "Formula: Boric Acid 5%", "Lactic Acid * * * neutralizes the fluids in the vagina", "Chinosol (Oxyquinoline Sulphate) is a nontoxic antiseptic stronger in action than Bichloride of Mercury", and "Boric acid a mild germicide." The article was alleged to be further misbranded in that the following statements appearing in a circular enclosed in the package were statements regarding the curative and therapeutic effects of the article and were false and fraudulent: "Prophylactic Indicated In: Leucorrhea (Whites), Cervicitis, specific and nonspecific, Vaginitis in all cases where vaginal antiseptics or prophylaxis is desired."

On January 16, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25416. Adulteration and misbranding of Spark'l Rub Alcohol Compound. U. S. v. 1,074 Bottles of Spark'l Rub Alcohol Compound. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36793. Sample no. 44033-B.)

This article failed to conform to its professed standard and the label bore erroneous statements concerning its alcoholic content and the quantity of the contents of its container.

On December 14, 1935, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,074 bottles of

Spark'l Rub Alcohol Compound at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about September 14, 1935, by the Tou-Jour Supply Co., from Brooklyn, N. Y., into the State of Massachusetts, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Bottle) "Spark'l Rub Alcohol Compound 70 Per Cent C_2H_5O 16 Fl. Ozs. Unexcelled for sponge, rub, bath, massage and all customary external uses of Rubbing Alcohol Compound."

The article was alleged to be adulterated in that its purity fell below the professed standard under which its was sold, namely, "Alcohol Compound 70 Per Cent", in that it was not composed essentially of ordinary (ethyl) alcohol but consisted of impure isopropyl alcohol and water.

The article was alleged to be misbranded in that the statements on the label, to wit, "Alcohol Compound 70 Per Cent" and "16 Fl. Ozs.", were false and misleading, in that the article consisted of a mixture of isopropyl alcohol and water, and further that the quantity of the contents was less than 16 fluid ounces.

On January 20, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25417. Misbranding of Blu-V-Spray. U. S. v. 5 Bottles of Blu-V-Spray. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36807. Sample no. 41215-B.)

Unwarranted curative and therapeutic claims were made for this article.

On December 21, 1935, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of a quantity of Blu-V-Spray at Owatonna, Minn., alleging that the article had been shipped in interstate commerce on or about September 19, 1935, by the Tim Lake Products Co., Inc., from Des Moines, Iowa, to Owatonna, Minn., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Package) "Baby Chicks * * * Spray directly on chickens, allowing them to inhale fumes."

Analysis showed that the article consisted essentially of water with small amounts of formaldehyde, glycerin, menthol, thymol, eucalyptol, methyl salicylate, pine oil, salicylic acid, and a blue coloring matter.

Misbranding was charged under the allegation that the packages of the article bore the following statements, and that they were false and fraudulent representations concerning the curative or therapeutic efficacy of the article, to wit, "For infectious Ailments of Head, Throat and Respiratory Organs. * * * Baby Chicks—Three days to three weeks old—Four tablespoons of diluted Blu-V-Spray to one-half pint of water, spraying house and chicks at least once a week and oftener if infected. * * * Gapes, Bronchitis, Intestinal Flu, Head Colds and other respiratory ailments— * * * Spray directly on chickens, allowing them to inhale fumes two to four times daily according to seriousness of infection. * * * Severe Cases separate infected poultry while treating."

On March 14, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25418. Misbranding of Jermite Wormer. U. S. v. 14 Bottles of Jermite Wormer. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36808. Sample no. 41216.)

Unwarranted therapeutic and curative claims were made for this article.

On December 21, 1935, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of a quantity of Jermite Wormer at Owatonna, Minn., alleging that the article had been shipped in interstate commerce on or about November 12, 1935, by the Tim Lake Products Co., Inc., from Des Moines, Iowa, to Owatonna, Minn., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Package) "Wormer * * * Do not feed poultry heavily the day before you use Jermite Wormer."

Analysis showed that the article consisted essentially of iron, copper, magnesium and sodium sulphates, salicylic acid, oil of anise, oleoresin of aspidium, and water.

Misbranding was charged under the allegation that the package of the article bore the following statements, and that they were false and fraudulent representations concerning the curative or therapeutic efficacy of the article, to wit, "Wormer * * * A liquid preparation containing ingredients used in cleaning the intestinal tract and bowel region of certain impurities including Pin, Round and Tape Worms. * * * Do not feed poultry heavily the day before you use Jermite Wormer. The day you use Jermite Wormer, pen the poultry up and put the Wormer in the drinking water. * * * Eight tablespoons of Jermite Wormer to each gallon of water or buttermilk."

On March 14, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25419. Misbranding of Procaine-Epinephrin Dentules No. 2. U. S. v. 19 Boxes of Procaine-Epinephrin Dentules No. 2. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36895. Sample no. 52040-B.)

The label of this article bore erroneous statements concerning the quantities of its ingredients.

On December 28, 1935, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of certain boxes of Procaine-Epinephrin Dentules No. 2 at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about December 4, 1935, by the Atlantic Manufacturing Corporation, from Brooklyn, N. Y., to Pittsburgh, Pa., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Carton) "Contains procaine 2%"; (circular) "Dentules contain approximately 2.5 cc of anesthetic solution Procaine 2%."

The article was alleged to be misbranded in that the following statements appearing upon and within the package were false and misleading: (Carton) "Contains—Procaine 2%"; (circular) "Dentules contain approximately 2.5 cc of anesthetic solution * * * Procaine 2%."

On January 23, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25420. Misbranding of Knifers Tonic. U. S. v. 11 Bottles of Knifers Tonic. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36897. Sample no. 48549-B.)

Unwarranted curative and therapeutic claims were made for this article and its label did not bear a correct statement of its alcoholic content.

On January 13, 1936, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of certain bottles of Knifers Tonic at Atlanta, Ga., alleging that the article had been shipped in interstate commerce on or about April 16, 1935, by the McMurray Drug Co., from Abbeville, S. C., into the State of Georgia, and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Bottle) "Knifers Tonic * * * Prepared only by The McMurray Drug Co., Abbeville, S. C."

Analysis showed that the article consisted essentially of creosote, a chloride, alcohol (37 percent), and water.

The article was alleged to be misbranded (a) in that the label on the package failed to bear a statement of the quantity or proportion of alcohol contained therein, in that the statement, to wit, "Alcohol not over 67% by volume", appearing upon the bottle label and carton, was not a correct statement of the proportion of alcoholic content; (b) in that the following statements appearing upon and within the package were false and fraudulent statements regarding the curative and therapeutic effects of the article: (Carton) "* * * (Formerly known as Dr. Neuffer's Lung Tonic) * * * Especially recommended for Stubborn Coughs * * * Bronchial Asthma and certain conditions of the Respiratory Organs. Contains the Virtues of well-known Remedies for above conditions"; (bottle label) "* * * (Formerly known as Dr. Neuffer's Lung Tonic) * * * Indicated in the treatment of Stubborn Coughs * * * Bronchial Asthma, and certain conditions of the Respiratory Organs. Contains the Virtues of well known Remedies for above conditions."

On February 1, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25421. Misbranding of Pneumo-Nox. U. S. v. 108 Jars of Pneumo-Nox. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36898. Sample no. 48825-B.)

Unwarranted curative and therapeutic claims were made for this article.

On December 30, 1935, the United States attorney for the Eastern District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 108 Jars of Pneumo-Nox at Marion, S. C., alleging that the article had been shipped in interstate commerce on or about January 8, 1935, by the Willard Products Co., from Greenville, N. C., into the State of South Carolina, and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Jar) "Pneumo-Nox * * * Prepared by Willard Products Company, Greenville, N. C."

Analysis showed that the article consisted essentially of volatile oils (6.6 grams per 100 milliliters), including menthol and eucalyptol, incorporated in petrolatum.

The article was alleged to be misbranded in that the following statements appearing upon the packages were statements regarding the curative and therapeutic effects of the article and were false and fraudulent: (Jars) "Pneumo-Nox All Purpose Salve Is Especially Recommended For The Local Treatment Of * * * Chest Colds, Irritation of The * * * Lungs. * * * For Chest Colds wring a towel out in hot water and place on chest. This opens the pores to allow Pneumo-Nox to penetrate deeply. Remove towel and thoroughly rub in a liberal amount of Pneumo-Nox. Place another application of Pneumo-Nox on the chest and cover with hot flannel cloth. This will cause salve to vaporize and enter nasal passages, chest and lungs, carrying its healing qualities to the seat of irritation and congestion. * * * For Sore Throat massage thoroughly with Pneumo-Nox and bind with flannel cloth. Place a small amount of salve on the tongue and swallow. If irritation is deep rub in Pneumo-Nox on chest. For Croup * * * breathe the healing vapors. As an All Purpose Salve * * * for * * * cuts * * * stiff joints, sore * * * feet, * * * sores, etc."

On January 27, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25422. Adulteration and misbranding of Hospital Brand Rubbing Alcohol. U. S. v. 574 Bottles of Hospital Brand Rubbing Alcohol. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 37071. Sample no. 50711-B.)

This article failed to conform to its professed standard and its label bore a false representation regarding its composition and was without a statement of the quantity or proportion of alcohol in the article.

On January 16, 1936, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of a quantity of Hospital Brand Rubbing Alcohol at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about December 2, 1935, by the Reo Chemical Co., from Newark, N. J., to New York, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Bottle) "Hospital Brand Rubbing Alcohol 70 proof Isopropyl Alcohol—Uses:—* * * As a sponge in case of fever. As a household antiseptic on cuts, bruises, insect bites, etc. * * * Meeker Pharmacal Co., Newark, N. J."

Adulteration of the article was charged under the allegation that its strength and purity fell below the professed standard under which it was sold, namely, "Rubbing Alcohol", and the article did not contain ordinary (ethyl) alcohol but consisted of a mixture of isopropyl alcohol and water.

Misbranding was charged (a) under the allegation that the statement on the label, to wit, "Rubbing Alcohol", was false and misleading in that the article did not consist of ordinary (ethyl) alcohol but was a mixture of isopropyl alcohol and water; (b) under the allegation that the package failed to bear upon its label a statement of the quantity or proportion of isopropyl alcohol contained in the article in that the expression "70 proof Isopropyl Alcohol" was meaningless.

On February 17, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25423. Misbranding of Wittone. U. S. v. 645 Bottles of Wittone. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 37072. Sample no. 48581-B.)

Unwarranted therapeutic and curative claims were made for this article.

On January 15, 1936, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of a quantity of Wittone at Atlanta, Ga., alleging that the article had been shipped in interstate commerce on or about November 30 and December 5, 1935, by United Distributors, Inc., from Louisville, Ky., into the State of Georgia, and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Bottle) "Wittone."

Analysis showed that the article consisted essentially of Epsom salt (28 grams per 100 milliliters), salicylic acid (0.35 gram per 100 milliliters), and water, flavored with cinnamon and colored pink.

Misbranding of the article was charged under the allegation that the packages bore the following statements regarding the curative and therapeutic effects of the article and that the statements were false and fraudulent: "Purify & Tone The Systems of Men, Women & Children * * * Indigestion, Coated Tongue, Headache, Chronic Malaria, Rheumatism Pains, Impure Blood * * * Tired, Dull, Weak Feeling and Influenza * * * With Dysentery, Bloody Flux or Cholera Infantum take ½ teaspoonful without water every 2 hours."

On February 8, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25424. Adulteration and misbranding of Spark'l Rub Alcohol Compound. U. S. v. 888 Bottles of Spark'l Rub Alcohol Compound. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 37073. Sample no. 44072-B.)

This article failed to conform to its professed standard, the label bore erroneous statements regarding its composition and did not contain a statement of the proportion of alcohol in the article, and the bottle contained a lesser amount than represented on its label.

On January 15, 1936, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of a quantity of Spark'l Rub Alcohol Compound at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about September 19, 1935, by Tou Jour Supply Co., from Brooklyn, N. Y., into the State of Massachusetts, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Bottle) "Sparkle Rub Alcohol Compound 70 Per Cent C_2H_5O 16 Fl. Ozs. Unexcelled for sponge, rub, bath, massage and all customary external uses of Rubbing Alcohol Compound."

Adulteration of the article was charged under the allegation that its purity fell below the professed standard under which it was sold, namely, "Alcohol Compound 70 Per Cent", in that it was not composed essentially of ordinary (ethyl) alcohol but consisted of impure isopropyl alcohol and water.

Misbranding was charged under the allegation that the label of the article bore the statements, "Alcohol Compound 70 Per Cent" and "16 Fl. Ozs.", and that the said statements were false and misleading (a) in that the former statement created the impression that the article contained ordinary (ethyl) alcohol, when in fact it consisted of a mixture of isopropyl alcohol and water; (b) and in that the quantity of the contents of each of the bottles was less than 16 fluid ounces. Misbranding was further charged under the allegation that the package failed to bear upon its label a statement of the quantity or proportion of isopropyl alcohol contained in the article.

On March 16, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25425. Misbranding of Zo-Ro-Lo. U. S. v. 23 Bottles of Zo-Ro-Lo. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 37074. Sample no. 49625-B.)

Unwarranted therapeutic and curative claims were made for this article.

On January 15, 1936, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of a quantity of Zo-Ro-Lo at

Port Elizabeth, N. J., alleging that the article had been shipped in interstate commerce on or about December 20, 1935, by Zo-Ro-Lo, Inc., from Ada, Ohio., into the State of New Jersey, and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Bottle) "Zo-Ro-Lo."

Analysis showed that the article consisted essentially of Epsom salt (24 grams per 100 cubic centimeters), glycerin, water, and small proportions of citric acid, benzoic acid, and menthol, colored red.

Misbranding of the article was charged under the allegation that the bottle label bore the following statements regarding the curative or therapeutic effects of the article and that the statements were false and fraudulent: "A Scientific Preparation Designed to aid Nature in the Treatment of Many Ailments Which are Traceable to Intestinal Auto-Intoxication * * * 'Remove the Cause Nature Will Do The Rest' * * * Directions For the initial dose take 3 to 4 tablespoonfuls followed by a glass of water before breakfast. In case elimination does not begin in 3 to 4 hours, repeat this dose until the bowels function freely (copious, watery stool). Take the same amount for 3 consecutive mornings and then decrease the dose to such amount that may be required to insure proper elimination each morning thereafter. Should the stomach rebel against before-breakfast doses, take after eating. Children should be given Zo-Ro-Lo in proportionate doses according to age. Zo-Ro-Lo should be taken at first sign of Indigestion. Since Zo-Ro-Lo is designed to aid Nature in eliminating the toxins caused from auto-intoxication and putrefaction occurring within the intestinal tract and to establish normal metabolism, the length of time required to take Zo-Ro-Lo will depend upon the condition of the patient. Zo-Ro-Lo contains no * * * harmful * * * drugs."

On February 17, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

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United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOV 11 1936
U. S. Department of Agriculture

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

25426-25525

[Approved by the Acting Secretary of Agriculture, Washington, D. C., August 12, 1936]

25426. Misbranding of salad oil. U. S. v. Import Oil Corporation and John Esposito. Pleas of guilty. Corporation fined \$400 on two counts. Remaining fines remitted. (F. & D. no. 33912. Sample nos. 52145-A, 52148-A, 52149-A, 67449-A, 67450-A.)

This case involved a product consisting essentially of cottonseed oil which was labeled to convey the impression that it was imported olive oil.

On March 5, 1935, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Import Oil Corporation and John Esposito, New York, N. Y., alleging shipment by said defendants in violation of the Food and Drugs Act on or about November 6, 1933, and January 22, 1934, from the State of New York into the State of New Jersey, and on or about November 18, 1933, from the State of New York into the State of Connecticut of quantities of salad oil which was misbranded. The article was labeled in part: "Samaritana Brand Oil" [or "Cardinale Brand Oil"] * * * Packed by Import Oil Corp."

The article was alleged to be misbranded in that the statements in large, conspicuous type, "Samaritana * * * Oil * * * Lucca * * * Import Oil", the word "Tito" preceding the word "Lucca", together with prominent designs showing crowns, shields, olive branches bearing olives, olive trees and a woman bearing away a vase, and design of medals, with respect to the Samaritana brand, and the following statement in large conspicuous type, "Cardinale * * * Oil * * * Lucca * * * Import Oil", and the word "Tito" preceding the word "Lucca", together with prominent designs showing Roman cardinal, shields, olive branches bearing olives, Roman cardinal's hat and replica of medals, with respect to the Cardinale brand, borne on the labels, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser in that the said statements and designs represented that it consisted solely of olive oil, that it was a Lucca-type oil produced in Italy, and that it was imported from Italy; whereas it was not as so represented, but was a domestic product consisting almost entirely of cottonseed oil, and the false and misleading statements and designs were not corrected by the inconspicuous statement "Vegetable Oil" on the label of the Samaritana brand, and "High Grade Vegetable Oil with Flavor", on the label of the Cardinale brand, since olive oil is a vegetable oil.

On April 12, 1935, the defendants entered pleas of guilty and the corporation was fined \$200 on each of two counts of the information. A fine of \$1 was imposed against the corporation on the third count, which was remitted; and a fine of \$1 on each of the three counts imposed against John Esposito also was remitted.

M. L. WILSON, Acting Secretary of Agriculture.

25427. Adulteration of canned tomato puree. U. S. v. 995 Cases of Canned Tomatoes [Tomato Puree]. Default decree of condemnation and destruction. (F. & D. no. 34294. Sample no. 3590-B.)

This case involved canned tomato puree that contained excessive mold.

On November 6, 1934, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court

a libel praying seizure and condemnation of 995 cases of canned tomatoes, alleging that the article had been shipped in interstate commerce on or about September 7, 1934, by the Rush County Packing Co., from Glenwood, Ind., to Plattsmouth, Nebr., and charging adulteration in violation of the Food and Drugs Act.

On December 4, 1934, the Norfolk Packing Co., Plattsmouth, Nebr., filed an appearance and exceptions to the libel. On December 13, 1934, the exceptions of the claimant submitted on the question only of the validity of the petition as filed before seizure of the goods, were overruled without opinion.

On January 9, 1935, the libel was amended, and on June 19, 1935, a second amended libel was filed describing the product as canned tomato puree. It was alleged in the second amended libel that the article was adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On November 22, 1935, the case having come on for hearing and the claimant having failed to appear, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25428. Adulteration of tomato puree and tomato catsup. U. S. v. 319 Cases of Tomato Puree and 248 Cases of Tomato Catsup. Default decree of condemnation and destruction. (F. & D. nos. 35210, 35211. Sample nos. 22291-B, 22892-B.)

This case involved tomato puree and tomato catsup which contained excessive mold.

On March 4, 1935, the United States attorney for the Western District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 319 cases of tomato puree and 248 cases of tomato catsup at Madison, Wis., alleging that the articles had been shipped in interstate commerce on or about December 5, 1934, by the Cicero Canning Co., from Cicero, Ind., and charging adulteration in violation of the Food and Drugs Act.

The articles were alleged to be adulterated in that they consisted wholly or in part of decomposed vegetable substances.

On April 9, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the products be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25429. Adulteration of tomato pulp. U. S. v. Bert Powers, Paul Powers, Mary M. Powers, and Rodney H. Koontz (Gaston Canning Co.) Plea of guilty. Fine, \$25. (F. & D. no. 35912. Sample no. 31821-B.)

This case involved canned tomato pulp that contained excessive mold.

On October 2, 1935, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Bert Powers, Paul Powers, Mary M. Powers, and Rodney H. Koontz, trading as the Gaston Canning Co., Gaston, Ind., alleging shipment by said defendants in violation of the Food and Drugs Act, on or about October 11, 1934, from the State of Indiana into the State of Illinois, of a quantity of tomato pulp that was adulterated. The article was labeled in part: "Fancy Heavy Tomato Pulp * * * Gaston Canning Company, Gaston, Indiana."

The article was alleged to be adulterated in that it consisted in part of a decomposed vegetable substance.

On October 22, 1935, a representative of the Gaston Canning Co., having authority to enter a plea, appeared and entered a plea of guilty on behalf of the company, and the court imposed a fine of \$25.

M. L. WILSON, *Acting Secretary of Agriculture.*

25430. Adulteration of prunes. U. S. v. Ben Greenbaum. Plea of guilty. Fine, \$50. (F. & D. no. 35939. Sample no. 31504-B.)

This case was based on a shipment of dried prunes which were in part decomposed.

On August 31, 1935, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Ben Greenbaum, Portland, Oreg., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about February 7, 1935, from the State of Oregon into the State of Washington of a quantity of prunes that were adulterated.

The article was alleged to be adulterated in that it consisted in part of a filthy and decomposed vegetable substance.

On December 3, 1935, the defendant having entered a plea of guilty, a fine of \$50 was imposed. Payment of fine was suspended and the defendant was placed on probation for 3 years. On December 19, 1935, the judgment was set aside and the defendant was fined \$50.

M. L. WILSON, *Acting Secretary of Agriculture.*

25431. Adulteration of canned tomato puree. U. S. v. L. Frank Cook and Mallie F. Cook (Marysville Packing Co.). Plea of guilty. Fine, \$25. (F. & D. no. 35953. Sample nos. 3277-B, 3278-B, 3288-B, 3289-B, 3290-B, 3292-B, 3293-B, 3294-B, 19608-B, 19611-B to 19615-B, incl.)

This case was based on interstate shipments of canned tomato puree that contained excessive mold.

On October 2, 1935, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against L. Frank Cook and Mallie F. Cook, trading as the Marysville Packing Co., Marysville, Ind., alleging shipment by said defendants in violation of the Food and Drugs Act, between the dates of August 20 and October 7, 1934, from the State of Indiana into the State of Kentucky of quantities of canned tomato puree which was adulterated. The article was labeled in part: "B. & O. Brand * * * Tomato Puree Packed by Marysville Packing Co., Marysville, Ind."

The article was alleged to be adulterated in that it consisted in part of a decomposed vegetable substance.

On October 11, 1935, a representative of the Marysville Packing Co., having authority to enter a plea for the company, entered a plea of guilty and the court imposed a fine of \$25.

M. L. WILSON, *Acting Secretary of Agriculture.*

25432. Misbranding of preserves, marmalade, jellies, and grape jam. U. S. v. 77 Cases of Preserves, et al. Default decree of condemnation. Products delivered to charitable institution. (F. & D. no. 36212. Sample nos. 35912-B to 35925-B, incl., 38451-B.)

This case involved preserves, jellies, etc., which were short in weight.

On September 4, 1935, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 151 cases containing preserves, jellies, grape jam, and marmalade, at Denver, Colo., consigned by the Sanitary Food Manufacturing Co., Minnesota Transfer, Minn., alleging that the articles had been shipped in interstate commerce between the dates of June 28 and July 27, 1935, from the State of Minnesota into the State of Colorado, and charging misbranding in violation of the Food and Drugs Act as amended. The articles were labeled: "Brown's J. S. B. Brand * * * Packed for the J. S. Brown Mercantile Co., Denver, Colo.", together with the quantity of the contents and the variety.

The articles were alleged to be misbranded in that the statements on the labels, "2 Lb. Net", "14 Oz. Net", "13½ Oz. Net", and "1 Lb. Net", were false and misleading and tended to deceive and mislead the purchaser. Misbranding was alleged for the further reason that the articles were food in package form and the quantities of the contents were not plainly and conspicuously marked on the outside of the package, since the quantities stated were not correct.

On October 15, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the products be delivered to a charitable institution.

M. L. WILSON, *Acting Secretary of Agriculture.*

25433. Adulteration and misbranding of butter. U. S. v. 8 Cartons of Butter, and other actions. Decrees of condemnation. Portion of product released under bond; remainder destroyed. (F. & D. nos. 36296, 36297, 36387, 36388, 36394. Sample nos. 31056-B, 31063-B, 31079-B, 31080-B, 37471-B.)

These cases involved several lots of butter, samples of which were found to contain mold or filth. Samples taken from one of the lots were also found deficient in milk fat.

On August 10, August 23, and August 30, 1935, the United States attorneys for the Middle and the Western Districts of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 250 cartons and 26 tubs of butter at

Scranton, Pa., 8 cartons of butter at Kingston, Pa., 10 cartons of butter at Wilkes-Barre, Pa., and 75 boxes of butter at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce, in various shipments, on or about June 12, June 25, and July 27, 1935, by the Paul A. Schulze Co., from St. Louis, Mo., and charging adulteration and misbranding in violation of the Food and Drugs Act. Portions of the article were labeled in part: "Clover Springs * * * Butter" [or "Sunshine Valley Country Roll Butter"] * * * Distributed by Paul A. Schulze Co., St. Louis, Mo."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance. Adulteration of a portion of the article was alleged for the further reason that a product deficient in milk fat had been substituted for butter.

Misbranding of the said portion was alleged for the reason that it was labeled "Butter", which was false and misleading, since it contained less than 80 percent of milk fat.

On November 22 and December 30, 1935, no claimant having appeared for the lots seized at Pittsburgh, Kingston, and Wilkes-Barre, judgments of condemnation were entered and it was ordered that the said lots be destroyed. The decrees authorized the marshal to sell the lots seized at Kingston and Scranton, Pa., for inedible grease and directed that he oversee its disposition for such purpose.

On April 21, 1936, the Paul A. Schulze Co. having appeared as claimant for the lots seized at Scranton, and having admitted the allegations of the libel and consented to the entry of decrees, judgments of condemnation were entered and it was ordered that the said lots be released under bond conditioned that the product be denatured by mixing and melting it with other grease so that it could not be used in any manner for human consumption.

M. L. WILSON, *Acting Secretary of Agriculture.*

25434. Adulteration of pears. U. S. v. 30 Bushels and 39 Bushels of Pears. Default decrees of condemnation and destruction. (F. & D. nos. 36405, 36407. Sample nos. 83867-B, 84315-B.)

This case involved an interstate shipment of pears that were contaminated with arsenic and lead.

On August 17 and September 3, 1935, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 69 bushels of pears at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about August 13 and August 25, 1935, by the South Haven Fruit Exchange, from South Haven, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Packed by South Haven Fruit Exchange South Haven, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On November 1 and 4, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25435. Adulteration of pears. U. S. v. 38 Bushels of Pears. Default decree of condemnation and destruction. (F. & D. no. 36406. Sample no. 84336-B.)

This case involved an interstate shipment of pears that were contaminated with arsenic and lead.

On September 3, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 38 bushels of pears at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about August 25, 1935, by R. R. Hafer, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Lakeshore Brand Packed by South Haven Fruit Exchange South Haven Mich 306 Clapp."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On November 4, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25436. Adulteration of apples. U. S. v. 10 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36408. Sample no. 33873-B.)

This case involved apples which were contaminated with arsenic and lead.

On August 17, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about August 9, 1935, by Herbert Chabot, from Coloma, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Herbert Chabot Riverside Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On November 14, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25437. Adulteration of apples. U. S. v. 43 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36409. Sample no. 33875-B.)

This case involved apples which were contaminated with arsenic and lead.

On August 17, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 43 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about August 7 and 8, 1935, by Charles Lull, from Watervliet, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Chas. Lull, Jr Watervliet, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On November 1, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25438. Adulteration of apples. U. S. v. 10 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36411. Sample no. 39521-B.)

This case involved apples which were contaminated with arsenic and lead.

On August 24, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about August 16, 1935, by N. Katsulos, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Duchess By Irving Arent Coloma Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On November 1, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25439. Adulteration of canned salmon. U. S. v. 251 Cases of Canned Salmon. Consent decree of condemnation. Product released under bond for segregation and destruction of decomposed portion. (F. & D. no. 36441. Sample no. 49730-B.)

This case involved canned salmon which was in part decomposed.

On September 28, 1935, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court of libel praying seizure and condemnation of 251 cases of canned salmon at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about August 10, 1935, by the C. M. Everitt Co., from Seattle, Wash., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On October 18, 1935, the Puget Fisheries, a Washington corporation, claimant, having admitted the allegation of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released to the C. M. Everitt Co., distributor for the claimant, under a bond conditioned that it be shipped to Seattle for examination under the supervision of this Department, that the portion unfit for human consumption be destroyed and that the good portion be labeled to show that it was packed by the Puget Fisheries.

M. L. WILSON, *Acting Secretary of Agriculture.*

25440. Misbranding of canned spinach. U. S. v. 150¼ Cases of Canned Spinach. Default decree of condemnation and destruction. (F. & D. nos. 36443, 36444. Sample nos. 32354-B, 32355-B, 32613-B, 32614-B.)

This case involved canned spinach which was misbranded, since it was slack filled and was not labeled to indicate that fact, and since the label failed to declare the quantity of the contents.

On September 30, 1935, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 150¼ cases of canned spinach at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about April 11, 1935, by the Clamme Canning Co., from Hartford City, Ind., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Hartford City Brand Spinach Lightweight packed by Clamme Canning Co. Hartford City, Ind."

The article was alleged to be misbranded in that it was canned food and fell below the standard of fill of container promulgated by the Secretary of Agriculture because of excessive headspace and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On November 27, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25441. Misbranding of canned peaches. U. S. v. 44 Cases of Canned Peaches. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 36445. Sample no. 29880-B.)

This case involved canned peaches that were substandard and that were not labeled to indicate that fact.

On October 1, 1935, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 44 cases of canned peaches at Birmingham, Ala., alleging that the article had been shipped in interstate commerce on or about July 25, 1935, by the Georgia Canning Co., from Wayside, Ga., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Shaver's Brand * * * Georgia Yellow Peeled Freestone Peaches, Packed by Georgia Canning Company, Wayside, Georgia."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the pieces of fruit were not of uniform size, they did not meet the requirements of the term "tender", in that they were so soft as to lose their natural shape, and they were not in unbroken halves, and the package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that they fell below such standard.

On November 21, 1935, the Georgia Canning Co. having appeared as claimant, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be relabeled, under the supervision of this Department, to bear the substandard statement prescribed by the Secretary of Agriculture.

M. L. WILSON, *Acting Secretary of Agriculture.*

25442. Adulteration of canned salmon. U. S. v. 3,921 Cases of Canned Salmon. Consent decree of condemnation. Product released under bond. (F. & D. no. 36454. Sample nos. 40912-B, 40924-B.)

This case involved canned salmon, samples of which were found to be decomposed.

On October 3, 1935, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 3,921 cases of canned salmon at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about August 24, 1935, by the New England Fish Co., from Cordova, Alaska, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Sunburst Brand Pink Alaska Salmon Packed For Doty Fish Company Kalama Wash."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On October 5, 1935, the New England Fish Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it should not be sold or otherwise disposed of contrary to the provisions of the Food and Drugs Act.

M. L. WILSON, *Acting Secretary of Agriculture.*

25443. Adulteration of herring and anchovies sprats. U. S. v. 2 Cartons and 26 Cans of Herring and 2 Cases of Anchovies Sprats. Default decrees of condemnation and destruction. (F. & D. nos. 36465, 36466. Sample nos. 42230-B, 42231-B.)

These cases involved canned herring and anchovies sprats that were undergoing active decomposition.

On October 8, 1935, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 2 cartons and 26 cans of herring, and 2 cases of canned anchovies sprats at New York, N. Y., alleging that the former had been shipped from Lysekil, Sweden, by A. B. Corners, arriving at New York, N. Y., on or about October 23, 1934, and that the latter had been shipped from Gothenburg, Sweden, by the Stiberg Canning Co., arriving at New York, N. Y. on or about May 21, 1935, and charging adulteration in violation of the Food and Drugs Act. The articles were labeled, respectively, "Orren's * * * Vinga Herring * * * Made in Sweden", and "Stiberg's Swedish Koster-Anchovies-Sprats * * * Stiberg Canning Company, Gothenburg, Sweden."

The articles were alleged to be adulterated in that they consisted in whole or in part of decomposed animal substances.

On October 26, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the products be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25444. Adulteration of damson plums and crab apples. U. S. v. 11 Baskets of Plums and 14 Bushels of Crab Apples. Default decree of condemnation and destruction. (F. & D. nos. 36477, 36489. Sample nos. 34386-B, 34477-B.)

These cases involved damson plums and crab apples that were contaminated with arsenic and lead.

On September 6 and September 18, 1935, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 11 baskets of damson plums and 14 bushels of crab apples at Chicago, Ill., alleging that the articles had been shipped in interstate commerce on or about August 31 and September 6, 1935, by Steve Miliskiewicz, from South Haven, Mich., and charging adulteration in violation of the Food and Drugs Act. The articles were labeled: "Steve Miliskiewicz R. F D #2 South Haven Mich."

The articles were alleged to be adulterated in that they contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered them injurious to health.

On November 14 and November 27, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the products be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25445. Adulteration of damson plums. U. S. v. 17 Bushels of Plums. Default decree of condemnation and destruction. (F. & D. no. 36478. Sample no. 34378-B.)

This case involved a shipment of damson plums that were contaminated with arsenic and lead.

On September 6, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 17 bushels of damson plums at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about August 27, 1935, by Will Nicolson, from Hartford, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Packed by James Boyce, Holland Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On November 1, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25446. Adulteration of cabbage. U. S. v. One Carload of Cabbage. Consent decree of condemnation. Product released under bond. (F. & D. no. 36485. Sample no. 15978-B.)

This case involved a carload of cabbage that was contaminated with arsenic and lead.

On September 18, 1935, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one carload of cabbage at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about September 12, 1935, by S. H. Nelson, from American Fork, Utah, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, namely, arsenic and lead, which might have rendered it injurious to health.

On September 20, 1935, Charles Milne, claimant, having admitted the allegations of the libel and having consented to the condemnation of the product, judgment was entered ordering that it be released under bond, conditioned that the deleterious substances be removed under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

25447. Adulteration of crab apples and apples. U. S. v. 31 Bushels of Crab Apples and 49 Bushels of Apples. Default decrees of condemnation and destruction. (F. & D. nos. 36487, 36506. Sample nos. 34440-B, 47313-B.)

These cases involved crab apples and apples that were contaminated with arsenic and lead.

On September 14, 1935, and September 27, 1935, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 31 bushels of crab apples and 49 bushels of apples at Chicago, Ill., alleging that they had been shipped in interstate commerce on or about September 4 and September 5, 1935, by the J. M. Benson Co., from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. The crab apples were labeled: "Adam Krause R 2 Benton Harbor Mich Hyslop." The apples were labeled: "Harry Scherer R 1 Watervliet Mich Wolf River."

The articles were alleged to be adulterated in that they contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered them injurious to health.

On November 4 and December 2, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the products be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25448. Adulteration of crab apples. U. S. v. 7 Bushels of Crab Apples. Default decree of condemnation and destruction. (F. & D. no. 36488. Sample no. 34443-B.)

This case involved crab apples that were contaminated with arsenic and lead. On September 14, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the

district court a libel praying seizure and condemnation of 7 bushels of crab apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about September 8, 1935, by Rosenthal & Stockfish, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Steve Awdukewich R 1 Sodus Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On November 1, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25449. Adulteration of apples. U. S. v. 30 Bushels of Apples. Default decree of condemnation and destruction with provision that they might be disposed of by sale, provided deleterious substances be first removed. (F. & D. no. 36491. Sample no. 32561-B.)

This case involved a shipment of apples which were contaminated with arsenic spray residue.

On September 9, 1935, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 30 bushels of apples at Orlando, Okla., alleging that the article had been transported in interstate commerce, by M. L. Redus, from Lincoln, Ark., on or about September 3, 1935, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained an added poisonous ingredient, arsenic, which might have rendered it injurious to health.

On October 24, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be disposed of by destruction, or that it be properly cleaned and made free from the arsenic spray residue and sold by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*

25450. Adulteration of pears. U. S. v. 49 Bushels of Pears, and other cases. Default decrees of condemnation and destruction. (F. & D. nos. 36492, 36514, 36516. Sample nos. 33442-B, 34451-B, 34452-B.)

These cases involved pears which were contaminated with arsenic and lead.

On September 14 and September 16, 1935, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 88 bushels of pears at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about September 5 and September 6, 1935, by Tony Megna, from Coloma, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "Bartlet, Tony Megna Coloma Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On November 1, November 4, and November 14, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25451. Adulteration of apples. U. S. v. 29 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36498. Sample no. 34359-B.)

This case involved apples which were contaminated with arsenic and lead.

On September 4, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 29 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about August 28, 1935, by Raymond Scherer, from Watervliet, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Raymond Scherer R 2 Watervliet Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On November 1, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25452. Adulteration of apples. U. S. v. 25 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36501. Sample no. 47154-B.)

This case involved apples which were contaminated with arsenic and lead. On September 16, 1935, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 25 bushels of apples at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about September 13, 1935, by Charles Passiglia, from Golden Eagle, Ill., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, which might have rendered it injurious to health.

On November 23, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25453. Adulteration of apples. U. S. v. 133 Bushels, 9 Bushels, and 14 Bushels of Apples. Default decrees of condemnation and destruction. (F. & D. nos. 36502, 36503. Sample nos. 47258-B, 47262-B, 47263-B.)

These cases involved apples which were contaminated with arsenic and lead.

On September 20 and September 24, 1935, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 156 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce in various shipments on or about September 6, September 9, and September 15, 1935, by B. J. Kable, Bert Cable, and Burton Cabell, from Berrien Springs, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Burton J. Cable R. F. D. Berrien Springs, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On November 27 and December 2, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25454. Adulteration of apples. U. S. v. 7 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36504. Sample no. 47277-B.)

This case involved apples which were contaminated with arsenic and lead.

On September 24, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 7 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about September 16, 1935, by Carl Weidlich, from Covert, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "From Carl Weidlich R 2 Covert Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On November 29, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25455. Adulteration of apples. U. S. v. 43 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36505. Sample no. 47083-B.)

This case involved apples which were contaminated with arsenic and lead.

On September 28, 1935, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the

district court a libel praying seizure and condemnation of 43 bushels of apples at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about September 27, 1935, by C. F. Kinder, from Golden Eagle, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "C. F. Kinder Golden Eagle Ill."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, which might have rendered it injurious to health.

On November 25, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25456. Adulteration of butter. U. S. v. 81 Cartons of Butter. Product ordered released under bond to be denatured. (F. & D. no. 36509. Sample nos. 32662-B, 32663-B.)

This case involved butter that was deficient in milk fat and that contained mold and other extraneous matter.

On September 6, 1935, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 81 cartons of butter at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about August 27, 1935, by the Paul A. Schulze Co., from Pittsburgh, Pa., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "Clover Springs Creamery Butter [or Jersey Belle Select Cream Butter] Paul A. Schulze Co."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance. Adulteration was alleged for the further reason that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as provided by act of Congress of March 4, 1923.

On November 29, 1935, the Paul A. Schulze Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment was entered ordering that the product be released to the claimant under bond conditioned that it be denatured and rendered into commercial grease.

M. L. WILSON, *Acting Secretary of Agriculture.*

25457. Adulteration of pears. U. S. v. 41 Baskets of Pears. Default decree of condemnation and destruction. (F. & D. no. 36512. Sample no. 41580-B.)

This case involved pears which were contaminated with arsenic and lead.

On September 20, 1935, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 41 baskets of pears at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about September 2, 1935, by B. A. Peters, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Andrew Menchinger, R-1, Benton Harbor, Mich., Bartlett."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, which might have rendered it injurious to health.

On October 25, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25458. Adulteration of pears. U. S. v. 12 Bushels of Pears. Default decree of condemnation and destruction. (F. & D. no. 36515. Sample no. 34446-B.)

This case involved pears which were contaminated with arsenic and lead.

On September 14, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 12 bushels of pears at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about September 9, 1935, by Pete Lores, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Irving L. Martin, Coloma, Mich. Bartlett Pears."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On November 14, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25459. Adulteration of apples. U. S. v. 36 Baskets of Apples. Default decree of condemnation and destruction. (F. & D. no. 36568. Sample nos. 24806-B, 24807-B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On September 10, 1935, the United States attorney for the Western District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 26 bushels of apples at Waco, Tex., alleging that the article had been shipped in interstate commerce on or about September 3, 1935, by Stupak & Co., from Lincoln, Ark., and that the article was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, in amounts that might have rendered it harmful to health.

On November 13, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25460. Adulteration of apples. U. S. v. 128 Bushels of Apples. Consent decree of condemnation. Product released under bond for removal of deleterious substance. (F. & D. no. 36569. Sample no. 25282-B.)

Examination of the apples involved in this case showed the presence of arsenic-spray residue in an amount that might have rendered them injurious to health.

On September 14, 1935, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 128 bushels of apples at Enid, Okla., alleging that the article had been transported in interstate commerce on or about September 9, 1935, by L. R. McElhinney, from Farmington, Ark., and that the article was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained arsenic-spray residue which might have rendered it injurious to health.

On September 14, 1935, L. R. McElhinney, Enid, Okla., having appeared as claimant and having admitted the allegations of the libel and having consented to a decree, judgment of condemnation was entered and it was ordered that the apples be released under bond conditioned that they be washed to remove the deleterious substance.

M. L. WILSON, *Acting Secretary of Agriculture.*

25461. Adulteration of apples. U. S. v. 15 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36570. Sample no. 34130-B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On October 8, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 bushels of apples at Harvey, Ill., alleging that the article had been shipped in interstate commerce, on or about October 1, 1935, by Dave Leffman, from Berrien Springs, Mich., and that the article was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On November 29, 1935, no claimant having appeared, judgment of condemnation and forfeiture was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25462. Adulteration of apples. U. S. v. 343 Bushels of Apples. Consent decree of condemnation. Product released under bond for removal of deleterious substance. (F. & D. no. 36572. Sample no. 45063-B.)

Examination of the apples involved in this case showed the presence of lead and arsenic in amounts that might have rendered them injurious to health.

On October 2, 1935, the United States attorney for the Southern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 343 bushels of apples at Huntington, W. Va., alleging that the article had been transported in interstate commerce, on or about September 12 and 17, 1935, by P. A. Watson, from Proctorville, Ohio, and that the article was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added deleterious ingredients, lead and arsenic, which might have rendered it injurious to health.

On October 30, 1935, P. A. Watson, Proctorville, Ohio, having entered an appearance as claimant and having admitted the allegations of the libel and having consented to a decree, judgment of condemnation was entered and it was ordered that the apples be released under bond conditioned that the deleterious substances be removed by cleaning.

M. L. WILSON, *Acting Secretary of Agriculture.*

25463. Adulteration of apples. U. S. v. 42 Bushels of Apples. Consent decree entered. Product ordered delivered to charitable organization on condition that the deleterious ingredients be removed. (F. & D. no. 36575. Sample no. 47076-B.)

This case involved apples that were contaminated with arsenic and lead.

On September 26, 1935, the United States attorney for the Northern District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 42 bushels of apples at Tulsa, Okla., alleging that the article had been shipped in interstate commerce on or about September 18, 1935, by Andy Posey, of Tulsa, Okla., from Springdale, Ark., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added lead and arsenic, which might have rendered it deleterious to health.

On September 30, 1935, Andy Posey, the sole intervenor, having waived his claim for the product, judgment was entered ordering that it be delivered to a charitable organization, on condition that it be peeled before being used, and that the baskets be returned to Andy Posey.

M. L. WILSON, *Acting Secretary of Agriculture.*

25464. Adulteration of apples. U. S. v. 39 Bushels and 48 Bushels of Apples. Default decrees of condemnation and destruction. (F. & D. nos. 36577, 36578. Sample nos. 47432-B, 47433-B.)

These cases involved apples that were contaminated with arsenic and lead.

On October 8, 1935, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 87 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 2, 1935, by William A. Ruhna, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. A portion of the article was labeled, "A. C. Steinke, R-1, Coloma, Mich., Delicious"; the remainder was labeled, "E. C. Edwards, Sodus, Mich. * * * Hubbardston."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On November 27 and December 2, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25465. Adulteration of apples. U. S. v. 12 Bushels and 140 Bushels of Apples. Consent decree of condemnation and destruction. (F. & D. no. 36583. Sample no. 49044-B.)

This case involved apples that were contaminated with arsenic and lead.

On October 9, 1935, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 152 bushels of apples at Columbus, Nebr., alleging that the article had been shipped in interstate commerce on or about October 2, 1935, by the Troy Apple Growers' Association, from Troy, Kans., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On October 16, 1935, the shipper and the consignee having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25466. Adulteration of huckleberries. U. S. v. 62 Baskets of Huckleberries.
Default decree of condemnation and destruction. (F. & D. no. 36585.
Sample no. 37442-B.)

This case involved an interstate shipment of huckleberries that contained maggots.

On July 27, 1935, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 62 baskets of huckleberries at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about July 25, 1935, by S. M. Huffman, from Shenandoah, Va., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "From S. M. Huffman, Shenandoah, Va."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid vegetable substance.

On September 24, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25467. Adulteration of apples. U. S. v. 45½ Bushels and 37 Bushels of Apples.
Default decrees of condemnation and destruction. (F. & D. no. 36587.
Sample no. 39141-B.)

These cases involved apples which were contaminated with arsenic and lead.

On or about September 25, 1935, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 82½ bushels of apples at Wichita Falls, Tex., consigned from Bentonville, Ark., alleging that the article had been shipped on or about September 11, 1935, by Sam Brettler, from the State of Arkansas, into the State of Texas, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it injurious to health.

On November 19, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25468. Adulteration of canned salmon. U. S. v. 14,826 Cases of Canned Salmon.
Consent decree of condemnation. Product released under bond for
segregation and destruction of unfit portion. (F. & D. no. 36588. Sam-
ple nos. 53606-B, 53614-B, 53646-B.)

This case involved canned salmon, samples of which were found to be decomposed.

On October 31, 1935, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 14,826 cases of canned salmon at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about September 15, 1935, by the Western Pacific Packing Co., from Mist Harbor, Alaska, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On December 11, 1935, the Western Pacific Packing Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the decomposed portion be segregated and destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25469. Adulteration and misbranding of tomato puree and adulteration of tomato catsup. U. S. v. 29 Cases of Tomato Puree and 69 Cases of Tomato Catsup. Default decrees of condemnation and destruction. (F. & D. nos. 36590, 36591. Sample nos. 33595-B, 33596-B.)

These cases involved canned tomato puree and tomato catsup which were adulterated because of the presence of excessive mold. The puree was also misbranded because of failure to declare the quantity of the contents.

On October 31, 1935, the United States attorney for the Eastern District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 29 cases of tomato puree and 69 cases of tomato catsup at Racine, Wis., alleging that the articles had been shipped in interstate commerce on or about September 17, 1935, by the Henryville Canning Co., from Henryville, Ind., and charging adulteration and misbranding of the former and adulteration of the latter, in violation of the Food and Drugs Act. The articles were labeled: "Crystal Springs Brand Tomato Puree [or "Henryville Brand Tomato Catsup"] * * * Henryville Canning Co., Henryville, Ind." The puree was further labeled: "Contents 10½ ozs. avoir."

The articles were alleged to be adulterated in that they consisted in whole or in part of decomposed vegetable substances.

Misbranding of the tomato puree was alleged for the reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct, in that the cans were no. 10 size and the label used was for no. 1 can.

On December 27, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the products be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25470. Adulteration of mixed nuts. U. S. v. 7 Bags of Mixed Nuts. Default decree of condemnation and destruction. (F. & D. no. 36595. Sample no. 30581-B.)

Examination of the mixed nuts involved in this case showed the Brazil nuts to be in large part moldy and decomposed.

On November 6, 1935, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of seven bags of mixed nuts at Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce by Sussman Wormser & Co., from San Francisco, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "S & W Mixed Nuts, Packed by Sussman Wormser & Co., San Francisco."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On January 14, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25471. Adulteration of canned salmon. U. S. v. 73 Cases of Canned Salmon (and one other case). Default decrees of condemnation and destruction. (F. & D. no. 36596. Sample no. 29905-B.)

This case involved canned salmon which was in part decomposed.

On November 1 and November 12, 1935, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 73 cases of canned salmon at Birmingham, Ala., and 11 cases of canned salmon at Cullman, Ala., alleging that the article had been shipped in interstate commerce on or about August 24, 1935, by the Oceanic Sales Co., from Seattle, Wash., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Purity Brand Fancy Pink Salmon * * * Oceanic Sales Co. Seattle U. S. A. Distributors."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On January 17, 1936, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25472. Misbranding of vanilla extract. U. S. v. 100 Cases of Extract of Vanilla. Decree of condemnation. Product released under bond for relabeling. (F. & D. no. 36601. Sample no. 45498-B.)

This case involved vanilla extract that contained less alcohol than declared on the label and that was also short volume.

On November 6, 1935, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 100 cases of extract of vanilla at Fort McPherson, Ga., alleging that the article had been shipped in interstate commerce on or about October 11, 1935, by the Davis Manufacturing Co., from Knoxville, Tenn., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Try-Me Brand Pure Extract of Vanilla * * * 50% Alcohol * * * 8 oz. Net Manufactured by Davis Manufacturing Co. Inc. * * * Knoxville, Tenn."

The article was alleged to be misbranded in that the statements on the label, "50% Alcohol" and "8 oz. Net", were false and misleading and tended to deceive and mislead the purchaser when applied to a product that contained less than 50 percent of alcohol in bottles containing less than 8 ounces. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct and was not in terms of liquid measure.

On November 14, 1935, the Davis Manufacturing Co., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

25473. Misbranding of canned peas. U. S. v. 68 Cases of Canned Peas. Default decree of condemnation and destruction. (F. & D. no. 36609. Sample no. 43529-B.)

This case involved canned soaked dry peas which were not labeled to distinguish them from ordinary canned peas.

On November 12, 1935, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 68 cases of canned peas at Providence, R. I., alleging that the article had been shipped in interstate commerce on or about August 16, 1935, by Gibbs & Co., from Baltimore, Md., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Ruth Brand Prepared from Ripe Peas * * * John T. Mitchell & Co. Distributors, Baltimore, Md."

The article was alleged to be misbranded in that the statement on the label, "Prepared from Ripe Peas", was false and misleading and tended to deceive and mislead the purchaser when applied to peas prepared from soaked dry peas.

On December 2, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25474. Adulteration of dried peaches. U. S. v. 150 Cases of Dried Peaches. Consent decree of condemnation. Product released under bond. (F. & D. no. 36624. Sample no. 46205-B.)

This case involved a shipment of dried peaches which were in part insect-infested.

On November 19, 1935, the United States attorney for the Eastern District of North Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 150 cases of dried peaches at Wilmington, N. C., consigned by Rosenberg Bros. & Co., from San Francisco, Calif., on or about October 14, 1935, alleging that the article was due to arrive at Wilmington, N. C., on or about November 20, 1935, and that it was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On December 20, 1935, Rosenberg Bros. & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that the unfit portion be removed by hand picking.

M. L. WILSON, *Acting Secretary of Agriculture.*

25475. Adulteration and misbranding of buttermilk. U. S. v. 60 Barrels and 10 Half Barrels of Buttermilk. Decree of condemnation. Product released under bond for relabeling. (F. & D. no. 36680. Sample nos. 43824-B, 43825-B.)

This case involved an interstate shipment of buttermilk which contained added coconut oil.

On November 29, 1935, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 60 barrels and 10 half barrels of alleged buttermilk at Bridgewater, Mass., alleging that the article had been shipped in interstate commerce on or about October 28, 1935, by the Center Milk Products Co., from Middlebury Center, Pa., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Vita Brand Near Solid Buttermilk From Churned Cream * * * Center Milk Products Co., Middlebury Center, Pa."

The article was alleged to be adulterated in that a substance containing coconut oil had been substituted wholly or in part for buttermilk, which the article purported to be.

Misbranding was alleged for the reason that the statement, "Near Solid Buttermilk from Churned Cream", borne on the label, was false and misleading and tended to deceive and mislead the purchaser when applied to a product containing coconut oil; and for the further reason that the article was offered for sale under the distinctive name of another article.

On December 18, 1935, J. A. Knudsen, trading as the Center Milk Products Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be relabeled to show its true nature.

M. L. WILSON, *Assistant Secretary of Agriculture.*

25476. Adulteration of chestnuts. U. S. v. 105 Barrels of Chestnuts. Default decree of condemnation and destruction. (F. & D. no. 36704. Sample no. 34823-B.)

This case involved a shipment of chestnuts which were in part wormy, moldy, and decayed.

On December 4, 1935, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 105 barrels of chestnuts at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about October 31, 1935, by Cuneo Bros., Inc., from New York, N. Y., and charged adulteration and violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid vegetable substance.

On December 28, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Assistant Secretary of Agriculture.*

25477. Adulteration of dressed poultry. U. S. v. 6 Barrels of Dressed Poultry. Consent decree of condemnation. Product released under bond for segregation and destruction of unfit portion. (F. & D. no. 36712. Sample no. 55158-B.)

This case involved an interstate shipment of dressed poultry that was in part decomposed and diseased.

On December 6, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of six barrels of dressed poultry at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about November 19, 1935, by Wescott & Winks, from Sumner, Iowa, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Tag) "From Wescott & Winks, Sumner, Ia."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance, and in that it was the product of diseased animals.

On January 2, 1936, Karsten & Sons, Chicago, Ill., claimants, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the unfit portion be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25478. Adulteration of chestnuts. U. S. v. 139 Barrels of Chestnuts. Default decree of condemnation and destruction. (F. & D. no. 36713. Sample no. 34824-B.)

This case involved chestnuts which were in part moldy.

On December 5, 1935, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 139 barrels of chestnuts at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about October 31, 1935, by Schroeder Bros., Inc., from New York, N. Y., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Fancy Marrons Frader Italy New York Product of Italy."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On December 28, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25479. Adulteration of Brazil nuts. U. S. v. 106 Baskets of Brazil Nuts. Consent decree of condemnation. Product released under bond for segregation and destruction of unfit portion. (F. & D. no. 36722. Sample no. 52022-B.)

This case involved a shipment of Brazil nuts which were in part wormy, moldy, and decomposed.

On December 6, 1935, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 106 baskets of Brazil nuts at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about October 31, 1935, by the General Food Sales Co., Inc., from Hoboken, N. J., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "King Cole Jumbo Brite Brazil Nuts."

The article was alleged to be adulterated in that it consisted in part of a filthy and decomposed vegetable substance.

On December 17, 1935, the General Foods Sales Co., Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the unfit portion be segregated and destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25480. Adulteration of apples. U. S. v. 9 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36723. Sample no. 33465-B.)

This case involved apples which were contaminated with arsenic and lead.

On October 8, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 9 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 2, 1935, by Sam Boukis, from Sodus, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On December 31, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25481. Adulteration of apples. U. S. v. 48 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36724. Sample no. 34057-B.)

This case involved apples which were contaminated with arsenic and lead.

On November 2, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 48 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 28, 1935, by Angelo Scaramuzzi, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Fred Warman Coloma, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On December 31, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25482. Adulteration of apples. U. S. v. 26 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36725. Sample no. 34150-B.)

This case involved apples which were contaminated with arsenic and lead.

On October 12, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 26 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 7, 1935, by Leo Zernone, from Berrien Springs, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it harmful to health.

On December 31, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25483. Adulteration of apples. U. S. v. 16 Bushels, 30 Bushels, and 13 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36726. Sample nos. 34172-B, 34174-B, 34181-B.)

This case involved apples which were contaminated with arsenic and lead.

On October 21, 1935, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 59 bushels of apples at Hammond, Ind., alleging that the article had been shipped in interstate commerce on or about October 14, 1935, by the Open Air Market, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. A portion of the article was labeled, "A. Cerecky R-3 Watervleit, Mich. Winter Banana"; the remainder was labeled "W. S. Hull & Son, Sodus Mich. Com Jonathan."

The article was alleged to be adulterated in that it contained poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On December 28, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25484. Adulteration of apples. U. S. v. 43 Bushels of Apples, and other cases. Decrees of condemnation. Portion of product destroyed; remainder released under bond, conditioned that the deleterious ingredients be removed before its use. (F. & D. nos. 36727, 36728, 36745, 36746. Sample nos. 39527-B, 39530-B, 49065-B, 49210-B.)

These cases involved apples which were contaminated with arsenic and lead.

On October 23, 26, 28, and 30, 1935, the United States attorney for the District of Nebraska, acting upon reports by the Secretary of Agriculture, filed in the district courts libels praying seizure and condemnation of 43 bushels of apples at Stockham, Nebr., and 95 bushels and 5,590 pounds of apples at Omaha, Nebr., alleging that the article had been shipped in interstate commerce between the dates of October 18 and October 28, 1935, in part by C. E. Hitz, from Fortescue, Mo., and in part from the orchards of C. E. Hitz, at Fortescue, Forest City, and Mound City, Mo., by Ed. A. Gautier and Sam Greenberg, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On October 30, 31, November 2, and December 4, 1935, no claim having been entered for the property, judgments of condemnation were entered. The product seized at Stockham was ordered destroyed, and the lots seized at Omaha were ordered released to a charitable institution on condition that they be pared to remove the arsenical spray, and the parings destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25485. Adulteration of apples. U. S. v. 1,213 Baskets of Apples. Consent decree of condemnation. Product released under bond, conditioned that the deleterious substances be removed. (F. & D. no. 36729. Sample nos. 45086-B to 45090-B, incl.)

This case involved shipments of apples which were contaminated with arsenic and lead spray residue.

On or about October 17, 1935, the United States attorney for the Southern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,213 bushels of apples at Kenova, W. Va., alleging that the article had been shipped in interstate commerce between the dates of September 14 and September 28, 1935, by C. H. Brubaker, from South Point, Ohio, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, lead and arsenic, which might have rendered it dangerous to health.

On November 5, 1935, C. H. Brubaker, South Point, Ohio, claimant, having admitted the allegations of the libel, and consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be washed in order to remove the spray residue.

M. L. WILSON, Acting Secretary of Agriculture.

25486. Adulteration of apples. U. S. v. 18 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36732. Sample no. 47499-B.)

This case involved apples which were contaminated with arsenic and lead.

On October 23, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 18 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 14, 1935, by Edward Rutz, from Berrien Springs, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Edward Rutz Berrien Springs, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On December 31, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, Acting Secretary of Agriculture.

25487. Adulteration of apples. U. S. v. 314 and 167 Bushels of Apples. Consent decree of condemnation. Product released under bond, conditioned that deleterious substances be removed. (F. & D. nos. 36733, 36734. Sample nos. 47512-B, 47513-B, 47655-B.)

These cases involved shipments of apples which were contaminated with arsenic and lead.

On October 23, 1935, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 481 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 11 and October 16, 1935, by W. H. Bullard, from Hartford, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Howard Slocum, Lawrence, Mich. * * * Jonathan."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On October 29, 1935, M. Guggenheim, Chicago, Ill., claimant, having admitted the allegations of the libels and having consented to the entry of a decree, and the cases having been consolidated, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the deleterious substances be removed by washing.

M. L. WILSON, Acting Secretary of Agriculture.

25488. Adulteration of apples. U. S. v. 36 Bushels and 171 Bushels of Apples. Decrees of condemnation. Portion of product released under bond, remainder destroyed. (F. & D. nos. 36735, 36736. Sample nos. 47563-B, 47587-B, 47588-B.)

These cases involved apples which were contaminated with arsenic and lead.

On October 10 and October 15, 1935, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 207 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 3 and October 7, 1935, by the Great Lakes Fruit Industries, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. A portion of the article was labeled, "Benton Center Branch of Great Lakes Fruit Ind. Inc. * * * Benton Harbor, Michigan"; the remainder was labeled: "Benton Center Fruit Assn. Benton Harbor, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On December 19, 1935, the Great Lakes Fruit Industries, Inc., having appeared as claimant for 171 bushels of the product, and having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the said 171 bushels be released to the claimant under bond, conditioned that they be rewashed in order to remove the deleterious substances. December 31, 1935, no claim having been entered for the remainder of the product, judgment of condemnation, forfeiture, and destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

25489. Adulteration of apples. U. S. v. 32 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36737. Sample no. 47613-B.)

This case involved apples which were contaminated with arsenic and lead.

On October 16, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 32 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 9 and 10, 1935, by Howard Slocum, from Lawrence, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Howard Slocum, Lawrence, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On December 31, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25490. Adulteration of apples. U. S. v. 50 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36738. Sample no. 47784-B.)

This case involved apples which were contaminated with arsenic and lead.

On or about October 8, 1935, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 50 bushels of apples at Kokomo, Ind., alleging that the article had been shipped in interstate commerce on or about September 29, 1935, by Virgil Young, from Glenn, Mich., and charging adulteration in violation of the Food and Drugs Act.

The apples were alleged to be adulterated in that they contained added poisonous and deleterious ingredients, arsenic and lead, which might have rendered their use harmful to health.

On December 7, 1935, no claimant having appeared, judgment was entered ordering that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25491. Adulteration of apples. U. S. v. 33 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36741. Sample no. 47977-B.)

This case involved apples which were contaminated with arsenic and lead.

On October 31, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the

district court a libel praying seizure and condemnation of 33 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 22, 1935, by A. Trakinsky, from Berrien Springs, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "Winesap Apples C. A. Stover."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On December 31, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25492. Adulteration of apples. U. S. v. 40 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36742. Sample no. 47981-B.)

This case involved apples which were contaminated with arsenic and lead.

On October 29, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 40 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 22, 1935, by Alex Kvetkas, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Baldwin A. Piontek & Son R-1 Benton Harbor, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On December 31, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25493. Adulteration of apples. U. S. v. 108 Bushels of Apples. Product released under bond, conditioned that deleterious substances be removed. (F. & D. no. 36744. Sample no. 49061-B.)

This case involved a shipment of apples which were contaminated with lead and arsenic.

On or about October 30, 1935, the United States attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 108 bushels of apples at Council Bluffs, Iowa, alleging that the article had been transported in interstate commerce from the P. L. Bristol orchard no. 2, Wathena, Kans., by Ralph C. Gaines, on or about October 28, 1935, and charging adulteration of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On October 31, 1935, Ralph C. Gaines having appeared as claimant, the apples were ordered released under bond conditioned that they be washed in order to remove the deleterious substances. On November 20, 1935, the bond was exonerated, the conditions having been complied with.

M. L. WILSON, *Acting Secretary of Agriculture.*

25494. Adulteration of apples. U. S. v. 9 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36749. Sample no. 54981-B.)

This case involved a shipment of apples which were contaminated with arsenic and lead.

On October 31, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 9 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 24, 1935, by J. L. Oppenheim, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part, "From Horace Baker * * * St. Joseph, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On December 31, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25495. Adulteration of pecans. U. S. v. 3 Bags of Pecan Nuts. Decree of condemnation and destruction. (F. & D. no. 36755. Sample no. 56453-B.)

This case involved pecan nuts which were in part moldy, shriveled, rancid, and wormy.

On December 10, 1935, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of three bags of pecans at Cincinnati, Ohio, consigned on or about November 30, 1935, alleging that the article had been shipped in interstate commerce by the National Pecan Co. from Albany, Ga., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid vegetable substance.

On December 23, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25496. Misbranding of butter. U. S. v. 11 Boxes of Butter. Default decree of condemnation and destruction. (F. & D. no. 36756. Sample no. 28675-B.)

This case involved a shipment of butter which contained less than 80 percent by weight of milk fat, the standard for butter prescribed by Congress.

On October 26, 1935, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 11 boxes of butter at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about October 23, 1935, by the Gray & White Co., from Tiffin, Ohio, and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Gold Creek Butter, A. L. B. brand."

The article was alleged to be misbranded in that the statement "Butter" on the label was false and misleading, since it contained less than 80 percent of milk fat.

On November 20, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25497. Adulteration and misbranding of butter. U. S. v. 9 Cases and 12 Pounds of Butter. Default decree of condemnation and destruction. (F. & D. no. 36757. Sample nos. 29904-B, 29906-B.)

This case involved butter, samples of which were found to contain mold, fragments of insects, hair, maggots, and other extraneous matter. The product was also deficient in milk fat and was short in weight.

On October 29, 1935, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel (subsequently amended) praying seizure and condemnation of 9 cases and 12 pounds of butter at Birmingham, Ala., alleging that the article had been shipped in interstate commerce on or about October 7, 1935, by the Rosemary Creamery, from Atlanta, Ga., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Carton) "Rosemary Pasteurized Process Butter, 1 lb. Net, Manufactured by Rosemary Creamery * * * Atlanta, Georgia"; (wrapper) "Net Weight Not Less Than 2 ozs. When Packed."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed animal substance. Adulteration was alleged for the further reason that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as required by the act of March 4, 1923.

Misbranding was alleged for the reason that the statements, "Butter", "1 lb. Net", and "Net Weight Not less than 2 ozs. when packed", were false and misleading and deceived and misled the purchaser; and for the further reason that it was food in package form and the quantity of the contents was not

plainly and conspicuously marked on the outside of the package, since the statement made was not correct.

On December 4, 1935, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25498. Adulteration of butter. U. S. v. 1 Tub of Butter. Default decree of condemnation and destruction. (F. & D. no. 36758. Sample no. 39880-B.)

This case involved butter, samples of which were found to contain hairs, mold, and nondescript dirt.

On October 14, 1935, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one tub of butter at Baltimore, Md., consigned by W. W. Hamilton & Son, of West Augusta, Va., alleging that the article had been shipped in interstate commerce on or about October 9, 1935, from Staunton, Va., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On November 21, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25499. Adulteration of butter. U. S. v. 1 Tub of Butter. Default decree of condemnation and destruction. (F. & D. no. 36759. Sample no. 39882-B.)

This case involved a shipment of butter, samples of which were found to contain portions of insects, rodent hair, mold, and nondescript dirt.

On October 14, 1935, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one tub of butter at Baltimore, Md., consigned by Philip Starkey, alleging that the article had been shipped in interstate commerce on or about October 10, 1935, from Mannington, W. Va., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Tag) "From Philip Starkey, Mannington, W. Va."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On November 21, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25500. Adulteration of butter. U. S. v. 1 Tub and 1 Can of Butter. Default decree of condemnation and destruction. (F. & D. no. 36760. Sample no. 39889-B.)

This case involved a shipment of butter, samples of which were found to contain portions of insects, maggots, hairs, mold, and nondescript dirt.

On October 18, 1935, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one tub and one can of butter at Baltimore, Md., consigned by H. G. Lambert, Hundred, W. Va., alleging that the article had been shipped on or about October 14, 1935, from Hundred, W. Va., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Tag) "H. G. Lambert, Hundred, West Va."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On November 21, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25501. Adulteration of butter. U. S. v. 1 Tub of Butter. Default decree of condemnation and destruction. (F. & D. no. 36761. Sample no. 39891-B.)

This case involved a shipment of butter, samples of which were found to contain maggots, ants, pupae, fragments of insects, hairs, mold, and nondescript dirt.

On October 18, 1935, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one tub of butter at Baltimore, Md.,

alleging that the article had been shipped in interstate commerce on or about October 17, 1935, by T. H. Utz, from Estes, Va., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On November 21, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25502. Adulteration of butter. U. S. v. 1 Tub of Butter. Default decree of condemnation and destruction. (F. & D. no. 36762. Sample no. 39893-B.)

This case involved a shipment of butter, samples of which were found to contain insects, mold, rodent hairs, and nondescript dirt.

On October 19, 1935, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one tub of butter at Baltimore, Md., consigned by H. M. Everett, of Love, Va., alleging that the article had been shipped in interstate commerce on or about October 16, 1935, from Lyndhurst, Va., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Shipped by H. M. Everett, P. O. Address, Love, Va."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On November 21, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25503. Adulteration of butter. U. S. v. 19 Boxes of Butter. Default decree of condemnation and destruction. (F. & D. no. 36764. Sample nos. 43466-B, 43467-B.)

This case involved a shipment of butter, samples of which were found to contain filth.

On October 22, 1935, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 19 boxes of butter, in part at Salem, Mass., and in part at Lynn, Mass., consigned about October 15, 1935, alleging that the article had been shipped in interstate commerce by Armour Creameries, from Marysville, Kans., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Parchment wrapper) "Goldendale Creamery Butter Distributed by Armour Creameries."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On December 23, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25504. Adulteration of butter. U. S. v. 25 Tubs of Butter. Decree of condemnation. Product released under bond to be reworked. (F. & D. no. 36765. Sample no. 43498-B.)

This case involved a shipment of butter which was deficient in milk fat.

On November 14, 1935, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 25 tubs of butter at Somerville, Mass., consigned about November 8, 1935, alleging that the article had been shipped in interstate commerce by the Pipestone Produce Co., from Pipestone, Minn., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as required by the act of Congress of March 4, 1923.

On November 19, 1935, the Pipestone Produce Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be reworked so that it contain at least 80 percent of milk fat.

M. L. WILSON, *Acting Secretary of Agriculture.*

25505. Adulteration and misbranding of butter. U. S. v. 10 Cases and 10 Cases of Butter. Default decree of condemnation and destruction. (F. & D. no. 36769. Sample no. 52001-B.)

This case involved butter that contained filth and was deficient in milk fat.

On October 29, 1935, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 20 cases of butter at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce by the Warco Manufacturing Co., from Bucyrus, Ohio, on or about October 24, 1935, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled, in part: "Warco Farm Brand Creamery Butter * * * Warco Farm Creamery, Bucyrus, Ohio."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed animal substance. Adulteration was alleged for the further reason that a product containing less than 80 percent of milk fat had been substituted for butter.

The article was alleged to be misbranded in that the statement on the label, "Butter", was false and misleading, since it contained less than 80 percent of milk fat.

On November 20, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, Acting Secretary of Agriculture.

25506. Adulteration of cauliflower. U. S. v. 396 Crates of Cauliflower. Consent decree of condemnation and destruction. (F. & D. no. 36771. Sample no. 39667-B.)

This case involved a shipment of cauliflower that was contaminated with arsenic and lead.

On October 24, 1935, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 396 crates of cauliflower at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about October 18, 1935, by the Sterling H. Nelson Co., from American Fork, Utah, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it injurious to health.

On October 26, 1935, the Sterling H. Nelson Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, Acting Secretary of Agriculture.

25507. Adulteration of cauliflower. U. S. v. 425 Crates of Cauliflower. Decree of condemnation and destruction. (F. & D. no. 36772. Sample no. 39668-B.)

This case involved cauliflower which was contaminated with lead and arsenic.

On October 29, 1935, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 425 crates of cauliflower at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about October 16, 1935, by E. O. Muir & Co., from Murray, Utah, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "E. O. Muir & Co. * * * Salt Lake City, Utah Big M Brand."

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it injurious to health.

On October 29, 1935, the shipper having appeared and admitted the allegations of the libel, judgment of condemnation was entered, and it was ordered that the product be destroyed.

M. L. WILSON, Acting Secretary of Agriculture.

25508. Adulteration of cauliflower. U. S. v. 5 Crates of Cauliflower. Default decree of condemnation and destruction. (F. & D. no. 36773. Sample no. 50404-B.)

This case involved a shipment of cauliflower that was contaminated with arsenic.

On October 18, 1935, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 5 crates of cauliflower at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about October 17, 1935, by Henry P. Tuthill, from Mattituck, Long Island, N. Y., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained an added poisonous ingredient, arsenic, which might have rendered it injurious to health.

On December 21, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25509. Adulteration of crab apples. U. S. v. 20 Bushels of Crab Apples. Default decree of condemnation and destruction. (F. & D. no. 36774. Sample no. 47412-B.)

This case involved a shipment of crab apples which were contaminated with arsenic and lead.

On October 8, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 20 bushels of crab apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about September 29, 1935, by W. B. Bushee, from Bravo, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "From W. B. Bushee, Bravo, Michigan."

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On November 27, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25510. Adulteration of quinces. U. S. v. 528 Bushels of Quinces. Decree of condemnation. Product released under bond. (F. & D. no. 36775. Sample no. 40054-B.)

This case involved a shipment of quinces which were contaminated with arsenic and lead.

On October 14, 1935, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of the District of Columbia, holding a district court, a libel praying seizure and condemnation of 528 bushels of quinces at Washington, D. C., alleging that the article had been shipped in interstate commerce on or about October 5, 1935, by the American Fruit Growers, from Lockport, N. Y., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Tip Top Quinces."

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it dangerous to health.

On October 16, 1935, the American Fruit Growers, Inc., Pittsburgh, Pa., having appeared as claimant, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the deleterious substances be removed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25511. Adulteration and misbranding of canned sardines. U. S. v. 15 Cases and 59 Cases of Canned Sardines. Decrees of condemnation. Portion of product released under bond to be relabeled; remainder destroyed. (F. & D. nos. 36794, 36812. Sample nos. 47188-B, 47189-B, 47190-B, 53882-B.)

These cases involved canned sardines which were represented to be packed in olive oil. Examination showed that sesame oil had been substituted in part for olive oil.

On December 16 and December 18, 1935, the United States attorneys for the Eastern District of Pennsylvania and the Eastern District of Missouri, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 15 cases of canned sardines at Philadelphia, Pa., and 59 cases of canned sardines at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about October 29 and October 30, 1935, by the Hovden Food Products Corporation,

from Monterey, Calif., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled, variously: "Portola Brand Filets of Sardines [or "Portola Brand Smoked Filets of Sardines", "Portola Brand Boneless Peeled Sardines", or "Hovden Filets of Sardines"] * * * Packed by Hovden Food Products Corp., Monterey, Calif."

The article was alleged to be adulterated in that sesame oil had been substituted in part for olive oil, which the label stated to be the packing medium.

Misbranding was alleged for the reason that the statements, "Filets of Sardines in Olive Oil", "Filets in Olive Oil", "Sardines in Olive Oil", and "Fancy Pack in Olive Oil", borne on the labels, were false and misleading and tended to deceive and mislead the purchaser when applied to an article packed in a mixture of olive and sesame oils.

On December 20, 1935, the Hovden Food Products Corporation having appeared as claimant for the lot seized at Philadelphia, Pa., judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be relabeled under the supervision of this Department. On January 20, 1936, no claimant appearing for the lot seized at St. Louis, Mo., judgment of condemnation was entered and it was ordered that the said lot be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25512. Adulteration of apples. U. S. v. 40 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36816. Sample no. 34078-B.)

This case involved apples which were contaminated with arsenic and lead.

On November 9, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 40 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about November 5, 1935, by Al's Fruit Market, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Adolph Baier R-2 Watervliet, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On December 31, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25513. Adulteration of apples. U. S. v. 451 Bushels and 450 Bushels of Apples. Products adjudged adulterated. Released under bond, conditioned that deleterious substances be removed. (F. & D. nos. 36817, 36829. Sample nos. 39550-B, 49116-B.)

These cases involved apples which were contaminated with arsenic and lead.

On November 26, 1935, the United States attorney for the Western District of Missouri, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 901 bushels of apples at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about September 12 and October 16, 1935, by the Killarney Fruit Ranch, Parker, Kans., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Killarney Fruit Ranch, Parker, Kansas."

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it injurious to health.

On December 10, 1935, Earl Killarney, Parker, Kans., claimant, having admitted the allegations of the libel and having consented to the entry of decrees, judgments were entered finding the product adulterated and ordering that it be released under bond, conditioned that it be washed to remove the deleterious substances.

M. L. WILSON, *Acting Secretary of Agriculture.*

25514. Adulteration of apples. U. S. v. 67 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36819. Sample nos. 47156-B, 47159-B.)

This case involved a shipment of apples which were contaminated with arsenic and lead.

On September 19, 1935, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 67 bushels of apples at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about September 17, 1935, by Louis Kaysing, from Beechville, Ill., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On November 25, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25515. Adulteration of apples. U. S. v. 8 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36821. Sample no. 48141-B.)

This case involved apples which were contaminated with arsenic and lead.

On November 13, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 8 bushels of apples at Maywood, Ill., alleging that the article had been shipped in interstate commerce on or about November 6, 1935, by John Davis, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Chas. Gage Benton Harbor, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On December 31, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25516. Adulteration of apples. U. S. v. 24 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36822. Sample no. 48165-B.)

This case involved apples which were contaminated with arsenic and lead.

On November 26, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 24 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 19, 1935, by William A. Dykstra, from Watervliet, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part, "Adolph Baier Watervliet Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On February 3, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25517. Adulteration of apples. U. S. v. 10 Crates of Apples. Default decree of condemnation and destruction. (F. & D. no. 36824. Sample no. 48276-B.)

This case involved apples which were contaminated with arsenic and lead.

On October 29, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 crates of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 20, 1935, by William Rivoli, from Fennville, Mich., and charging adulteration in violation of the Food and Drug Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On December 31, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25518. Adulteration of apples. U. S. v. 17 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36833. Sample no. 55083-B.)

This case involved apples which were contaminated with arsenic and lead.

On November 13, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 17 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about November 5, 1935, by James Pappas, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Frank Frieseche Benton Harbor Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On December 31, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25519. Adulteration of apples. U. S. v. 53 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36834. Sample nos. 55087-B, 55088-B.)

This case involved apples which were contaminated with arsenic and lead.

On November 13, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 53 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about November 5, 1935, by H. J. Hillegonds & Son, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. A portion was labeled: "Fred Leitz Sodas, Mich." The remainder was labeled: "Chas Friedrich R2 Coloma Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On December 31, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25520. Adulteration of apples. U. S. v. 46 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36835. Sample no. 55093-B.)

This case involved apples which were contaminated with arsenic and lead.

On November 13, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 46 bushels of apples at Harvey, Ill., alleging that the article had been shipped in interstate commerce on or about October 21, 1935, by the Blue Goose Fruit Store, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Gottlieb Radtke R-2 Watervliet, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On December 31, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25521. Adulteration of apples. U. S. v. 40 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36836. Sample no. 55117-B.)

This case involved apples which were contaminated with arsenic and lead.

On November 25, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the

district court a libel praying seizure and condemnation of 40 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 16, 1935, by I. Greenwald, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "A A Freier R-2 Benton Harbor Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On February 3, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25522. Adulteration of apples. U. S. v. 24 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36838. Sample no. 55143-B.)

This case involved apples which were contaminated with arsenic and lead.

On November 26, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 24 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 25, 1935, by W. C. Pictor, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Adolph Baier, R 2 Watervliet, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On February 3, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25523. Adulteration of apples. U. S. v. 79 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36839. Sample no. 55148-B.)

This case involved apples which were contaminated with arsenic and lead.

On November 22, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 79 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 23, 1935, by William Hamlin, from Glenn, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On February 3, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25524. Adulteration of apples. U. S. v. 6 Crates of Apples. Default decree of condemnation and destruction. (F. & D. no. 36840. Sample no. 55152-B.)

This case involved apples which were contaminated with arsenic and lead.

On November 22, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of six crates of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about November 17, 1935, by B. Ingallinera, from R. 2, Fennville, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On February 3, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25525. Adulteration of apples. U. S. v. 26 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36841. Sample no. 55204-B.)

This case involved apples which were contaminated with arsenic and lead.

On October 29, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district

court a libel praying seizure and condemnation of 26 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 23, 1935, by Fred M. Hartmann, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "A. T. Steinke * * * Benton Harbor, Mich."

The article was alleged to be adulterated in that it contained added posionous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On December 31, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

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NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

25526-25550

[Approved by the Acting Secretary of Agriculture, Washington, D. C., September 9, 1936]

25526. Supplement to notice of judgment no. 24874. U. S. v. 1,159 Cases of Tomato Paste. Consent decree of condemnation. Product released under bond. (F. & D. no. 35423. Sample no. 31818.)

On October 10, 1935, the default decree of condemnation and destruction entered on September 5, 1935, was vacated and an order was entered permitting F. E. Booth Co., Inc., the claimant, to intervene. On May 7, 1936, the claimant having filed an answer admitting the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, for salvaging of the good portion.

W. R. GREGG, *Acting Secretary of Agriculture.*

25527. Adulteration of dressed poultry. U. S. v. Louis Weinberg. Plea of guilty. Fine, \$25. (F. & D. no. 29363. I. S. no. 44088.)

This article consisted in part of dressed poultry that was unfit for food.

On May 10, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Louis Weinberg, Chicago, Ill., alleging shipment by him in violation of the Food and Drugs Act as amended, on or about November 10, 1931, from Minneapolis, Minn., to Chicago, Ill., of two barrels of dressed poultry that was adulterated. The article was labeled in part: (Barrel) "Canned Chix 99 Chix 202-19."

Adulteration of the article was charged (a) under the allegation that it consisted in part of animals that were unfit for food; and (b) under the allegation that the article, in part, was a product of diseased animals.

On November 15, 1935, a plea of guilty having been entered, a fine of \$25 was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25528. Alleged misbranding of cheese. U. S. v. Kraft-Phenix Cheese Corporation. Trial to court without a jury. Verdict for defendant. (F. & D. no. 29456. I. S. no. 48649.)

The contents of the packages of this article were alleged to be short in weight.

On February 2, 1935, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Kraft-Phenix Cheese Corporation, New York, N. Y., alleging shipment by it in violation of the Food and Drugs Act as amended, on February 8, 1932, from New York, N. Y., to East Hartford Conn., of numerous packages of cheese, and charging misbranding. The article was labeled in part: (Package) "Kraft Phenix Kraft Process Cheese American Pasteurized ½ Pound Net Weight * * * Kraft-Phenix Cheese Corporation, General Offices, Chicago."

Misbranding of the article was charged (a) under the allegations that the packages bore the statement, to wit, "½ Pound Net Weight"; that each of the packages contained an amount less than one-half pound; that the said statement was false and misleading; (b) under the allegation that the article was

labeled as aforesaid so as to deceive and mislead the purchaser; (c) under the allegation that the article was in package form and that the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

Plea of not guilty was entered. The case was tried to the court without a jury. At the close of the Government's testimony the defendant moved for a directed verdict.

On March 12, 1936, such motion was granted, pursuant to an opinion, as follows:

THOMAS, *District Judge*: The information filed against the defendant contains two counts charging violation of Title 21, U. S. C., Sections 9 and 10, in that the defendant misbranded certain cheese shipped by it in interstate commerce, by labelling the same with a weight more than its true weight. The Government has rested; and the defendant now moves for a directed verdict.

I deem it *prima facie* established that the defendant did in fact ship the cheese in question in interstate commerce, and that the weights shown on the labels were in fact more than the true weights existing at the time when the cheese was in the possession of the consignee. Nor can there be any question that if this constitutes sufficient evidence of "misbranding" then, that the defendant is now amenable to the penalties of the law.

An article is to be deemed misbranded in the case of food: "If in package form, the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count: Provided, however, that reasonable variations shall be permitted, and tolerances and also exemptions as to small packages shall be established by rules and regulations made in accordance with the provisions of Section three of this Act." Title 21 U. S. C. Sec. 10.

The cheese in question was sold in packages marked " $\frac{1}{2}$ lb. net weight"; and out of 60 packages, selected at random and weighed, 59 were underweight, one was overweight, and the average deficiency was about one-quarter of an ounce.

The respective contentions of the parties may be summarized as follows: The Government claims that it has established its case when it shows any scintilla of deficiency in the weight expressed on the label; though on a literal reading of the text it would appear that if the defendant understated the weight of its cheese, it would be just as liable to prosecution as if it overstated the same. The defendant contends that the proviso incorporated in the Act places the burden of negating its existence on the Government; and that in the instant case it is incumbent on the Government to show that the variations were unreasonable, and that the tolerances proven were not within the degrees permitted by the regulations of the departments controlling the enforcement of the Act.

The Government replies that the proviso in question merely vested in these departments a discretion as to when they would or would not prosecute the violations of the Act, and that when prosecution is determined upon, then the question of tolerances and variations is *ipso facto* removed from the consideration of the cause.

On this view of the matter, reference to fundamentals becomes necessary. If the defendant committed any offense at all, it committed it the moment the misbranded cheese crossed a state line. We may dismiss the notion that the act was innocuous, but became criminal as and when the Government chose to stamp it as such. Aside from the *ex post facto* character of such a determination, there is no room in our system of government for the exercise of any such power. The assertion, then, that any governmental department is vested with the power, in its discretion, to place or withhold the stamp of criminality upon an act after it has been committed, is wholly untenable. Either the law, by provision, makes the act an offense, or nothing does. The law, it is true, may be such as is directly legislated by the Congress, or indirectly, by the system of supplementary rules promulgated under congressional authority by some governmental department. But whether a rule of law be directly legislated or indirectly, it must be a rule of law, and not an individual fiat; and it must, if it be penal, command or inhibit *in praesenti* or *in futuro*. If this defendant committed a crime, it did it before the Government determined to prosecute. It must have done so, if it were to be liable to prosecution at all. So then we are at once confronted with the problem as to the bearing of the proviso.

It cannot be questioned that had the section been devoid of its proviso, then any deficiency in weight, however small, would have been criminal. We need not go to the extreme of holding that any excess would also have been criminal, even though no such distinction appears in the text. But the proviso is there, and the proviso is expressed categorically, "reasonable variations shall be permitted." Permitted by whom? By the departments, says the Government. By the jury, says the defendant. "Tolerances" are to be established by departmental rules and regulations; and presumably these tolerances are to determine the limits of reasonable variations; but whether so established or not, reasonable variations must be permitted.

As a matter of fact the Government has established its rules and regulations:

(1) The following tolerances and variations from the quantity of the contents marked on the package shall be allowed;

(1) Discrepancies due exclusively to errors in weighing, measuring, or counting which occur in packing conducted in compliance with good commercial practice.

(2)

(3) Discrepancies in weight or measure due exclusively to differences in atmospheric conditions in various places and which unavoidably result from the ordinary and customary exposure of the packages to evaporation or to the absorption of water.

Federal Food & Drugs Act (10th Rev.) Reg. 26.

It is perhaps to be noted that the departmental regulation puts no edge of precision on the language of the statute. It defines no limits in terms that are measurable; there is no known calculus by which it may be determined when, in any given instance, the tolerance has been exceeded. The Government says that all this is immaterial; even if mathematically computable tolerances had been established by rule, the Government would in no sense be bound, other than morally, by them. For such a perilous conclusion, no authority is cited.

I hold, then, that if the deficiency in the shipments in question did not exceed the reasonable variations or tolerances established by the Government, then no offense was committed within the purview of the Act.

It is the further contention of the Government that the matter of the reasonableness of the variation is for the defense to establish, and that the Government makes out its case when it shows a discrepancy between the actual and the stated weight. On this question, also, no light is furnished by way of decisions. I can only say that on a close reading of the text, I am of the opinion that the proviso is imbedded in the prohibition; that is, that the offense is limited by the proviso. If this reading be correct, then the duty of the Government is to establish the existence of the offense, as limited by the proviso; that is to say, the Government must go further, and show that the deficiencies in question transcended the tolerances granted under the rule. If, by reason of the amorphous character of the rule, this task is extraordinarily difficult, the answer must be that the defendant is not responsible for the language of the statute or the rule. It should have been a comparatively simple thing to have established tolerances in terms of percentages of weight, or of cubic measure; and then no undue difficulty would have been experienced by the Government in proving that the shortages exceeded the tolerances. The motion to strike is denied; and

The Motion for a directed Verdict is granted.

W. R. GREGG, *Acting Secretary of Agriculture.*

25529. Adulteration of tomato puree and adulteration and misbranding of tomato catsup. U. S. v. The Currie Canning Co. Plea of guilty. Fine, \$50. (F. & D. no. 29527. I. S. nos. 47533, 50808, 53688, 53732, 53733.)

This case was based on interstate shipments of tomato catsup and tomato puree that contained excessive mold. One lot of tomato catsup contained undeclared benzoate of soda.

On November 29, 1933, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Currie Canning Co., a corporation, Grand Junction, Colo., alleging shipment by said company in violation of the Food and Drugs Act between the dates of November 24, 1931, and March 25, 1932, from the State of Colorado into the States of Missouri and Texas, of quantities of tomato catsup and tomato puree that were adulterated and of a quantity of tomato catsup that was adulterated and misbranded. The articles were labeled, variously: "Mesa Brand Tomato Catsup" [or "Colorado Columbine Brand Tomato Catsup" or "Mesa Brand Tomato Puree"] Packed by the Currie Canning Co., Grand Junction, Colo."

The articles were alleged to be adulterated in that they consisted in whole or in part of filthy, decomposed, and putrid vegetable substances.

A portion of the tomato catsup was alleged to be misbranded in that it contained benzoate of soda and the label failed to bear a statement of the quantity and proportion of benzoate of soda contained therein.

On February 11, 1936, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$50.

W. R. GREGG, *Acting Secretary of Agriculture.*

25530. Alleged misbranding of pancake flour. U. S. v. Doud Milling Co., a corporation. Information dismissed on demurrer. (F. & D. no. 30292. Sample no. 3012-A.)

This article was alleged to be mislabeled as a whole-wheat product.

On July 28, 1934, the United States attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Doud Milling Co., a corporation, Denison, Iowa, alleging shipment by it in violation of the Food and Drugs Act as amended, on or about August 8, 1932, from Denison, Iowa, to Sioux Falls, S. Dak., of quantities of pancake flour, and charging misbranding. The article was labeled: (Case) "12 3½ Lb. Pkgs. * * * Whole Wheat Self-Rising Pancake Flour"; (package) " * * * A compound of specially prepared whole wheat flour, corn flour, sugar, salt, phosphate, soda, and powdered buttermilk."

Misbranding of the product was charged (a) under the allegations that there was borne on the cases and on the package the statement, to wit, "Whole Wheat Self-Rising Pancake Flour", and on the packages the statement, to wit, "Whole Wheat Pancake Flour"; that the product was not whole-wheat self-rising pancake flour; that the said statements were false and misleading; (b) under the allegation that the said statements were borne on the cases and packages so as to deceive and mislead the purchaser.

A demurrer to the information having been filed by the defendant, an order sustaining the demurrer and dismissing the information was entered on May 22, 1935.

W. R. GREGG, *Acting Secretary of Agriculture.*

25531. Alleged adulteration of canned sardines. U. S. v. 350 Cartons of Canned Sardines. Judgment of condemnation entered in the District Court for the Western District of Pennsylvania on the verdict of the jury, reversed by the Circuit Court of Appeals for the Third Circuit. Libel dismissed. (F. & D. no. 30752. Sample no. 40180-A.)

The libel in this case alleged that the canned sardines consisted in part of a decomposed animal substance.

On July 20, 1933, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 350 cartons of canned sardines at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about May 14, 1933, by the Van Camp Sea Food Co., Inc., Terminal Island, Calif., from that place to Pittsburgh, Pa., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Carton) "Van Camps Sardines in Tomato Sauce * * * Van Camp Sea Food Co. Inc. Terminal Island, Calif."

Adulteration of the article was charged under the allegation that it consisted in part of decomposed animal substance.

The Van Camp Sea Food Co., Inc., appeared as claimant for the seized property and answered on September 29, 1933, denying all the material allegations of the libel.

On May 17, 1934, the case having been tried to a jury, a verdict in favor of the United States was returned. Judgment of condemnation of the article was entered on the verdict on January 23, 1935. Appeal to the Circuit Court of Appeals for the Third Circuit was noted on February 16, 1935. That court, on February 11, 1936, reversed the judgment of the district court and remanded the case with instructions to dismiss the libel, pursuant to an opinion, as follows:

BUFFINGTON, Judge: This case, a libel by the Government to forfeit, is one of grave concern in that it not alone involves the destruction of a very large quantity of food, but, what is of more importance, it involves also the future of the appellant's extensive business and is a condemnation of the fish inspection of the State of California. Where the drastic remedy of forfeiture by the Government of the citizen's property was sought, the late Judge McPherson, then

District Judge for the Eastern District of Pennsylvania, stated in a charge to a jury:

It is not required that there should be, for example, as in a criminal case, proof beyond reasonable doubt, and that degree of proof is not required in this case, either—proof beyond a reasonable doubt; but a higher degree of proof than a mere preponderance, a mere balance of evidence in favor of the Government, is required. It is necessary, in a case like this, that the Government should establish, by clear and satisfactory evidence, that its case has been made out.

We agree therewith and make the adherence or departure therefrom the test of error in the present case, the facts of which are as follows:

The Government, on July 20, 1933, filed a libel to forfeit three hundred and fifty cartons of canned sardines, alleging "that said article of food so designated as aforesaid, as analyzed by the Food and Drug Administration, Department of Agriculture, United States of America, is shown to be adulterated in violation of Section Seven, Food and Drugs Act, Paragraph Sixth, Case of Food, in that product consists in part of decomposed animal substance."¹ The libel was sworn to at Pittsburgh by an inspector of the Food and Drug Administration, who based his knowledge "upon documents and reports of chemists representing the Food and Drug Administration, United States Department of Agriculture, Washington, D. C." The libel stated that the sardines were shipped May 14, 1933, by the owners, from California to Pittsburgh, on the Luckenbach Line and connections. Pursuant to the libel, the carload of sardines in question was taken in possession by the Government at Pittsburgh on July 20, 1933, and has been held during the two and a half intervening years. The appellant appeared, claimed the shipment, the case was tried by a jury, whose verdict was, "We, . . . find a verdict in favor of the United States of America. Recommend the mercy of the Court." On refusal of a new trial and entry of judgment this appeal was taken and error is assigned in the Court's refusal, at the close of the proofs, to dismiss the libel. While this motion was based on special grounds, we have, in pursuance of our rule which provides, "The Court, at its option, however, may notice a plain error not assigned", addressed ourselves to the general question whether, in view of all the evidence, the libel should have been dismissed and whether the court below committed error in instructing the jury that "the fair preponderance of the evidence" and "the fair weight of the evidence" was sufficient to warrant a verdict for the Government. In that regard we are of opinion the court erred and that the requirement is as above quoted in Judge McPherson's charge, namely, that to warrant forfeiture "a higher degree of proof than a mere preponderance, a mere balance of evidence in favor of the Government, is required. It is necessary, in a case like this, that the Government should establish, by clear and satisfactory evidence, that its case has been made out."

But assuming for present purposes the instructions of the court were right and that in a forfeiture case the preponderance, as in a civil case, is all that is required, did the proofs make out such a case that it could be submitted by a jury to find there was a preponderance? The answer to this question requires the critical study of the proofs, which we now try to make.

The claimants in this case are engaged in the catching, curing, canning and sale of sardines. Its business is carried on at Terminal Island, on the coast of California. It employs six vessels which catch fish in the open waters of the Pacific during the night, bring them in the morning to the shore plant, and on the same day takes place the process of removing the entrails, cutting off the heads and tails, cooking the fish in brine and tomato sauce at high temperature, packing and sealing them in oil and such sauce, and subjecting them meanwhile to continuous inspection by the Department of Fisheries of the State of California. Each individual fish is examined and packed in the final box by a girl, who throws aside any unfit fish. In this way, the fresh fish, which are never subjected to the sun's rays, are caught and packed in sardine boxes within not to exceed twenty-four hours. By a code of marking enforced by the State of California, every box of sardines has embossed on it a seal or stamp which shows the date such box was sealed, so that the time of catch, the ship making it, and the proofs of the inspectors and ship captains, as well as the delivery thereof to the plant and the subsequent treatment and packing of the fish, can be fixed with certainty. Without entering into details, the claimant proved all these facts, dates, operations, etc., with absolute certainty, and there is no proof to the contrary.

¹ The proof of the Government shows affirmatively that no such analysis was made.

The proofs show that no other fish than those caught by claimant's fishing boats were used in the cartons here in question. They also show claimant's boats were cleaned and the bilge water pumped out after each catch.

The proof of all of the captains, except one, is that their fish were caught after midnight and were delivered at the canning factory at from seven to nine hours after being caught. And in the case of the remaining boat, the catch was made "during the night preceding and the delivery was at 8 A. M." The testimony of these captains is reinforced by the contemporaneous reports made to the California State Fishery Inspectors. The proof as to the treatment of the fish is as follows:

The first boat comes to the dock, and they are taken into nets with a ring around them and lifts them out of the hull of that boat, and are poured into a shoot that goes into a cup or bucket with hoist that hoists them up beyond the second story into the boxes. The boxes automatically weigh five hundred pounds, and as soon as five hundred pounds are reached they are tripped. They are flumed into the water trough and flumed into receiving tanks. The tanks are close to our cutting machines, and they are flumed from the receiving tanks into the cutting machines where the heads and tails are cut off. From that they are flumed to a washer and scaler. It is a revolving net screen that has water pumped on all the time, and which screens and takes off the scales. From that they are flumed into the brining tanks. They are tanks we put them in and salt them down for a period of not less than one hour. From the brining tanks they are flumed to the dryers. The dryers are drop dryers, having ten drops. They are elevated to the top, and are in the screens No. 1. The fish put in that first goes through and drops down to No. 2, down to No. 3, down to No. 4, and down to No. 10. That takes an hour, and the temperature there is 110 degrees. From that they are conveyed by pairs to the packing tables, and the girls on each side of the table pack the sardines by hand, and place them on a conveyor. The conveyor takes them to the closing machine, but in transit they go through a machine that puts the tomato sauce, or whatever sauce we are using, in them. After they go to the closing machine they are sealed, and from there they go to a washing machine that washes off the tomato sauce or anything that might be on the cans. After the washing machines they go to the retorts where they are retorted according to the state laws of California Board of Health requirements. After the retorting process is through they go to the packing room ready for packing and shipping.

The further proof is that the brine is made up of two-thirds salt and one-third water; that it is used on but one batch of fish; that its purpose is to clean the fish and draw the blood out of them; and that the process lasts from one to four hours. The drying process takes an hour; the temperature is 100 degrees; and it takes the moisture out of the fish. The fish are cooked ninety minutes at a temperature of 240 degrees.

The Chief Inspector of the California State Fishery Department testified as to the character of state inspection and the steps taken by code and changing of inspectors so as to insure proper food product:

The cannery has to have a license from the Department before it can operate. The product has to meet the requirements of the State law before it can be shipped. It has to be processed—that is, sterilized at a certain prescribed temperature for a certain length of time, and a record or graph kept of that on a recording thermometer, and that is all checked every day. The equipment on the thermometer consists of record thermometer, mercury thermometer, and record gauge, all to check each other, are checked to see that they remain in proper working order. The inspector who checks the records checks each chart against each batch or each retort load, and places a blue check mark on there. That is further checked against the production record, which shows the history of that batch. I am talking about processing now. Each can must bear an embossed code on the tin that will identify it, and we allocate those codes to the cannery. Those codes are checked each day to see that they use the proper code, so if ten years from now any question comes up about a can, we can look back and find the history of that can. As to the fresh product, each boat is inspected when it comes in; the fresh fish is inspected. The method of inspecting that is when the hold is opened the inspector looks down in the hold, and gets a general idea of the appearance of the fish. From experience you can get a fairly good idea. If the fish are old, there will be an offensive odor—that is, if they are too old—and they will be broken; the heads will be red, and they will be like a rag—lost all their rigidity. If it appears necessary from the looks of the fish, the inspector will go down into the hold; if that appears unnecessary, they don't. Then they watch it up in the hoist, and go into the cannery, take the fish out of the flume, look at them, tear them apart, tear off the skin, look for the amount of fat under the skin, because it makes a quite a bit of difference how a fish stands up as to whether there is considerable fat under the skin or whether the fish is skinny; if they are skinny, they will break down during the rough handling they get in the machinery. Then they go along the machines where the sardines are cut, and after the heads are cut and the entrails withdrawn they can get a still better idea of the fish. After they go through the machine they go through a flume, and you can reach down and get a handful of those fish and look at them after they are dissected. That is, you get a cross section of the fish, cut off a couple of inches back of the head, and you can break it open, tear it down the back bone, and look at the flesh, and so on. Then the fish go through a scaler, and if they are soft, the scaler, which is a revolving squirrel cage and made out of rather rough, corrugated iron, will usually tear a soft fish up. The fish go in this revolving scale and constantly fall down, and that rubbing takes the scale off. From there they go to where we inspect them next on the packing table, and we walk up and down along the packing tables, and occasionally look at fish that are thrown out by the girls, or that go along through the tables and are thrown

out. That way we can see the worst fish. Then we can take fish off the belt, being delivered to the tables—they come on a moving belt—and break the fish open there. We look for any softening or other signs of decomposition as we see them. * * *

Question. Now, Mr. Bowman, the inspector who examined the fish that came into the cannery on this day, is he assigned to this plant every day, or does he go around from one to the other?

Answer. No, sir. It may have been the only day in the week he was there. We particularly move them around from cannery to cannery.

Question. But they are assigned to a cannery and stay there all day?

Answer. They are assigned either the preceding evening or in the morning.

The particular state inspector who inspected the fish which made up this lot of sardines testified as to his inspection of the cargoes as received from the several vessels, of his inspection during processing, of the reports he made thereon, which were produced and showed that "the fish were all in excellent condition."

In addition to the foregoing disinterested testimony, there is proof of another inspection. The product of these canneries is sold to wholesalers and brokers situated in all parts of the country. To enable these buyers to be assured as to the sardines, they have a local inspection company which inspects the sardines and issues "certificates to buyers and brokers throughout the United States and in some foreign countries." This company is wholly disassociated from the canneries. It inspected the pack every day; took samples for laboratory tests. The head of the company testified he had been employed by the United States Bureau of Chemistry as an expert in fish cases. He inspected this lot of fish, found them satisfactory and so certified that day. An examination of boxes taken from the shipment was made by several witnesses. Four disinterested men who were wholesalers or buyers—in one case for thirty chain stores—testified that the sardines were good, that they tasted all right, had no odor, and were fit for food. The buyer for the chain stores testified:

Question. Will you please be good enough to tell the jury exactly what you did in the examination of these sardines, how you went about it, what you found, and what your conclusions are with respect to their fitness for food, and general merchantability?

Answer. Well, the cans were cut. We dumped them into trays; broke the fish apart, felt the skins of them to see whether they were tight, or whether they were loose for firmness of skin; and whether or not there was any slime on them; smelled them for odor; picked the bones out to see how whole the bone would stay; broke the side walls of the fish apart for texture, to see whether they would break flaky. I felt them with my fingers to detect any softness or gumminess along the sides of the fish. I, myself, ate some out of the different cans we opened, to see whether or not I could get any stale, rancid taste out of them, which I could not detect on smelling the can as soon as I opened them. In my opinion the cans that were opened there in my presence were what I would consider a lot of canned California sardines of a little better quality than the average. . . . The condition of the sauce and oil was very good, and the fish were perfect. There weren't any broken fish of any kind in any cans I had seen. . . .

Question. What did you find as a result of that type of examination? Were they firm or were they not?

Answer. Very firm.

Question. Is that true of all the fish you examined in this particular lot?

Answer. Yes, all that I examined in this lot.

Question. Did you examine each individual fish in the cans?

Answer. Yes.

Question. Now, you have stated that you looked for slime. What did you find as a result of that examination?

Answer. I couldn't find any. All the skins were very firm on the fish.

Question. You testified that the bones were firm. You examined the back bone of the fish. Will you tell us how you did that.

Answer. Well, split the fish down the back, broke it open in two halves, and took the fork and lifted the bone out, indicating that the fish was firm and sound when packed. Had there been any—I would say a fish that had been out of water too long and had a chance to get stagnant, or something like that, they start to decay along the bone very quickly.

Question. Did you observe any decomposition of that type along those bones?

Answer. No, I did not.

Question. Was the bone itself firm, and did it hold together?

Answer. Very firm.

Question. What would you say as to the texture of the fish itself?

Answer. The texture of the fish and meat was very good.

Question. From your experience, Mr. Renfer, as a buyer of fish of this type, would you say those sardines were fit or unfit for human consumption?

Answer. Well, my opinion would be they would be fit for human consumption.

Question. Would you say in your opinion they were decomposed?

Answer. No.

Three other witnesses—wholesale buyers of fish—who were present at this examination, testified to the same effect, that the fish were smelled and tasted. In that respect the proof is:

Question. Will you tell the jury exactly what examination you made of these fish, and what you found with reference to their quality?

Answer. We cut about fifteen to twenty cans of fish. We examined first for odor; the general color of the fish on the outside. We found the bellies a silvery color, which

to my mind would indicate the fish was fresh; the skins firm; had nice sauce. We cut down the backs, split the centers, and examined the fish itself. To me it appeared a very good color, firm, and to my mind the fish was as nice a fish as I have ever seen of that type of fish.

Question. Did you examine the bones, Mr. Mars?

Answer. Yes, we did.

Question. And how did you find that?

Answer. The bones were firm.

Question. Did you make an examination of each individual fish in those cans?

Answer. Yes, we did.

Question. Did you smell of those fish?

Answer. We smelled them.

Question. What did you detect, if anything, in reference to an odor?

Answer. There was no foreign odor so far as I could detect.

Question. Did you taste any of those fish?

Answer. Yes, we did.

Question. Have you done that same thing in the past in connection with samples you have examined?

Answer. Yes, we do. Every time we get a shipment we examine them in the same way.

Question. Did you observe any unusual flavor or taste to these fish?

Answer. No.

Question. How did you find the sauce?

Answer. The sauce was a very good color.

Question. Now, in your opinion, Mr. Mars, would you say that these fish were or were not decomposed?

Answer. I personally couldn't see any decomposition in the fish.

Question. Would you say these fish were fit for food or unfit for food?

Answer. I would say it was fit for food.

The proofs offered by the Government consisted of two officers of the Government, one of whom was Dr. Albert O. Hunter, in charge of the Bacteriological Laboratory at Washington, and who made an examination of sardine cans on July 18, 1933, at the laboratory at Washington. The proof is the information was made on his report. As the record shows the libel was filed and the seizure made two days later, the all important question arises, were the boxes Dr. Hunter examined in his laboratory on July 18th part of the seizure made two days later, on July 20th. The only proof is the question and answer:

Question. Now, doctor, did you make an examination of the 120 cans, I believe it was, of the original samples that were taken in this case?

Answer. I did, yes.

Question. And where did you make that examination?

Answer. That examination was made in my own laboratory in Washington on the 18th of July, 1933.

Manifestly, this proof does not show the cans he examined in Washington on July 18th did not come from the seizure made two days later in Pittsburgh. Assuming they were Van Camp boxes, where they came from, whether they came from the lot seized two days later is a matter of speculation, not of certainty. The Government's proof is that fish decay rapidly when exposed to the air, but there is no proof when these cans were opened by the attendants or how many hours they stood exposed to the mid-summer heat of Washington City. He testified the fish so examined were decomposed and described them as "rotten." Asked what his Department regarded as decomposed, he said: "A state of decomposition or rottenness where it gets to the point where it would be obnoxious to the person who is asked to eat it." But it will be noticed that while he applied the terms "rotten" and "decomposed" to these fish and that the obnoxiousness of them was determined by "the person who is asked to eat them", in point of fact he did not subject these fish to smell or taste. His proof was that redness—or, as his associate said, pinkness—of color was "the infallible index of spoilage of fish products." The witness had never been at the Van Camp plant, he had never examined their process, but stood on his visual examination of the fish in his Washington laboratory. In these respects his testimony was that he suggests—but without proof—that odor from the fish may have been eliminated by the tomato sauce, but admits the fish he termed rotten had no odor. His testimony was:

Answer. I have never been able to detect any odor in sardines other than the tomato sauce and the sardine oil.

Question. A sardine without tomato sauce that had decomposed to the degree you claim these sardines had decomposed would have a persistent obnoxious odor?

Answer. I say I don't know. I haven't seen any rotten sardines canned without tomato sauce or something of that kind. There may be something in the cooking process that would volatilize these foul odors. They might get away.

The first examination testified to was made in Washington two days prior to the seizure, but how, or when, or where the boxes were obtained does not appear, nor is it shown how long the contents were exposed to the atmosphere of the laboratory in midsummer heat of the City of Washington, and, as bear-

ing on this, the testimony hereafter quoted is that a change and turning to red took place when the fish were exposed to the air.

A study of the testimony of these witnesses shows their conclusions are based on the theory that decomposition can be standardized and that the odor of fish, the taste of fish, or the freshness of fish, are not elements to be considered in arriving at their theoretical conclusions. That this theory was determinative with them is made clear by their testimony. Asked "to what extent am I correct in that statement that you have finally succeeded in classifying decomposition in connection with sardines?" the reply was,

"to the extent I can tell in a can by examining canned sardines the condition of that fish before it was canned.

"Question. Now, would the history or background of the fish itself have anything to do with it?

"Answer. I don't believe so; not as far as decomposition is concerned."

Fitness for food was not their criterion. The witness was asked: "I am only concerned with the samples you looked at. Is it your opinion or your contention that these sardines you looked at are or were harmful to health, or would be harmful to health if consumed?

Answer. I merely have an opinion they may be.

Question. You are not sure about that?

Answer. No, sir.

Question. You are not urging that as a contention in this case, that it is dangerous to the health of the community if they are sold.

Answer. No, sir.

The witness testified he had no fault to find with the sardines being packed in tomato sauce and that the interior of the fish was not contaminated by the sauce and that "we couldn't detect any odor." The witness based the alleged decomposition on the color of the flesh when the fish was broken up, which he described as "more of a bright pink color, which oxidizes gradually as the air strikes it, and turns a little darker—loses its brightness. . . . In this particular fish the color was a bright pink and gradually darkened as it was exposed to the air." The evidence of this witness shows that in addition to making tests by smell or taste, no chemical tests were made; that there was no attempt to locate bacteria, and that the important test—the indol—was not made. In that respect his evidence was:

Question. You made no effort in this case, did you, to determine whether there were any bacteria present?

Answer. No.

Question. Did you make any chemical examination of the product to determine decomposition?

Answer. No; it was entirely a physical examination.

Question. Well, now, there are certain prescribed chemical determinations that can be used to detect and determine decomposition. Isn't that so?

Answer. Well, there are certain qualifications. In other words, we have one chemical test which, if positive, *indicates decomposition*, but it may be negative in the case of decomposition.

Question. What is that?

Answer. That is the indol test.

Question. Did you make the indol test on these fish?

Answer. No, sir.

Moreover, the witnesses did not wash away the tomato sauce to see whether the redness was due to tomato sauce, whether it came from the air oxidizing the pink color to redness on exposure to air, and really could not say the fish were unfit for food. And the most practical and conclusive proof that could have been adduced, namely, opening cans before the jury and allowing them to try the homely but practical test of smelling and tasting the sardines, was not offered by the Government on which the burden of proof rested.

The witness stated he had not been at the claimant's plant for three years, that he was not familiar with the process it now used, and in answer to the question, "Now, assuming that the entrails of the fish were removed immediately upon arrival at the cannery, would that retard this decomposition?", he said, "I don't believe so."

Furthermore, the fact that these fish were fresh when canned was not a factor with this witness. In that regard he said:

Question. Well, there must be some expanse of time before this very active state of decomposition that you have described appears. Isn't that so?

Answer. Oh, yes.

Question. And if it appears that these were well protected, put in the can within a few hours after they had been caught, would that make any difference to you in your opinion?

Answer. Only that it would open up a very fertile field of investigation to find out how fish could have gotten in this condition in that short time. I couldn't go back on my regard that they were decomposed.

Question. You wouldn't do that no matter what the evidence for the claimant showed was the manner of handling these fish?

Answer. I would be open to convincing on that if I could be convinced.

Question. You probably would change your testimony if something could be shown to you as a scientific man to indicate any great doubt that this decomposition could have taken place in the short time they were out of the water?

Answer. It would have to be very convincing.

Question. But there might be some testimony that would change your opinion in that case?

Answer. It might be possible.

From the above it will appear that the redness of the fish, or as the witness explained, "It was more of a bright pink color, which oxidizes gradually as the air strikes it and turns a little darker—loses its brightness", was the determining factor in the mind of the Government's two witnesses, and in their opinion these fresh fish were rotten before they were processed, and this was proved by the fact of the pinkish color when the cans were opened. In that regard the first witness testified: "I would say that they were in a state of decomposition before they were cooked."

Question. Now, from your observation of those 11 per cent. that you have told us about were in an advanced stage of decomposition and rotten when you examined them, were they in an advanced stage of decomposition and rotten when they were placed in the can and before they were processed?

Answer. Yes, sir.

Question. There isn't any question about that in your mind, I take it?

Answer. Not in my mind, no.

Asked if the history or background of the fish had anything to do with decomposition, he said: "I can tell in a can by examining canned sardines the condition of that fish before it was packed." To the question, "Would the history or background of the fish itself have anything to do with it?" his answer was, "I don't believe so; not as far as decomposition is concerned."

The theory of the pre-cooking rottenness of these concededly fresh fish and the standardization of decomposition was met and overcome by the clear weight of the claimant's proofs. The witness Bowman, whose testimony has been referred to above, is the Chief Fish Inspector for the California State Department of Fisheries, and was for seven years an Inspector for the United States Bureau of Chemistry, and he testified that the pinkness was not a pre-cooking condition, but one that results from cooking. In that regard his testimony is:

Question. Now, in examining canned sardines have you ever noticed any reddening or tinting of the flesh that was described by the Government witnesses?

Answer. Yes, I have seen a pink sardine.

Question. To what do you attribute that color?

Answer. I always attributed it to the process.

Question. Please tell us what part of the process you think is responsible for that.

Answer. Before the present raw process which most of the canneries employ now, they did what they called fried them. That consisted of running them through a bath of cottonseed oil in trays, and allowing the trays to sit over night before packing. Those fish were usually quite white, outside of the fact that the oil always became darkened from cooking, breaking down, oxidizing, and the constant addition of oil which cooked out of the fish, so they were darkened somewhat from this oil, but after the raw process went into effect the fish, I noticed, seemed to have a more pink hue. Why I don't know.

Question. From your examination for the State of California have you observed this pink condition that the Government has described?

Answer. Well, I don't know for sure whether the pink I have observed is the same condition they are describing or not. I have observed pinkness in sardines though.

Question. In your opinion is that evidence of decomposition?

Answer. We never considered it so.

Question. In your opinion is it? Can you state with a reasonable degree of certainty whether or not that is decomposition?

Answer. I can state I do not think it is, because I have seen the sardines day after day, month after month, and even year after year delivered from the boat, and knowing in what condition those sardines were—at least, being satisfied in my opinion—and then following them on through the cannery, and cutting the cans afterwards—the next day after the fish were collected—and it is not my experience that I ever found any connection between the pinkness that I observed and the condition of the fish. I don't believe I ever heard of this as a criticism until this year, except Maine sardines. I have heard it said that that condition in Maine sardines indicated spoiling, but this is the first year I ever heard of its being applied to California sardines.

He further testified that the cooking in tomato sauce gave the pinkish character.

Rom, a witness, who was for twenty years a wholesale dealer in fish, testified that the pinkish color came from the tomato sauce, and that the sardines on the top of the can are more likely to get that color than the lower fish which lie in the oil.

Mars, who had similar experience for twenty-five years, testified the pinkish appearance would not evidence decomposition unless the color was greenish and accompanied by odor.

The head of the inspection company above referred to testified: "I have seen lots of reddening salmon along the backbone and paid no attention to it whatever, unless it threw off an odor of decomposition."

The testimony of the Chief Inspector, already referred to, was that so far as honeycombing was concerned, the samples from the fish here seized were actually tasted where there was any pitting. In that regard his evidence was:

Question. Do you know what honeycombing is?

Answer. Yes.

Question. Did you find any of that condition on these fish?

Answer. No. Any of these pits we found in the fish we took particular pains to taste that particular fish, to see whether or not it burned the mouth, and I got no burn out of any of them.

Question. What did you find with reference to the odor of these fish?

Answer. I thought the odor was perfectly normal.

Question. Did you examine them for color?

Answer. I noted the color, yes.

Question. What conclusion did you come to with reference to the color of those fish as having any bearing on their quality?

Answer. The color I considered was absolutely all right as far as the quality was concerned.

As we have said, the burden of proving its case by more than a mere preponderance of testimony rested on the Government and this burden, in our opinion, it did not meet; and this not only from a consideration of what was shown by the Government's proof, but also by what it might have shown but which it did not. We refer to the failure to open up boxes of these sardines and submit them to the inspection of the jury. The whole situation could have been solved had the cans been submitted to the jury, who could have, by the sense of smell and taste, determined whether the sardines were fit for food, and which course would not have left the jury in such a bewildered state of mind as to constrain them to recommend the mercy of the court. The rendering of such a verdict in itself would almost evidence their distrust of their own findings. Holding, as we do, that the trial Judge erred in making the preponderance of proof all that was required, and holding further that on the whole testimony the Government had not met the burden resting upon it, the judgment below is reversed and the case remanded with instructions to dismiss the libel.

On May 29, 1936, the libel was dismissed by the district court, as so directed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25532. Adulteration and misbranding of Honey Grove brand tomato catsup, Mid-West brand tomato catsup, Thames brand prepared mustard, Mid-West brand prepared mustard, SSS brand prepared mustard, Blue Mountain prepared mustard, Trump brand prepared mustard; and misbranding of Fargo prepared mustard. U. S. v. Mid-West Food Packers, Inc., and Robert J. Megular. Fine, \$100 imposed upon the corporation, and costs awarded against it. Individual defendant fined \$100. (P. & D. no. 31326. I. S. nos. 5879-A, 7294-A, 7585-A, 7807-A, 8369-A, 18179-A, 18205-A, 21539-A, 21607-A, 28925-A, 33172-A, 33173-A, 34352-A, 34361-A, 34501-A, 34508-A, 34509-A, 34563-A, 34564-A.)

On April 23, 1934, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Mid-West Food Packers, Inc., a corporation, and Robert J. Megular, alleging shipments by them in violation of the Food and Drugs Act as amended, in the period from March 12, 1932, to January 21, 1933, from Fowlerton, Ind., to various places in other States of quantities of Honey Grove brand tomato catsup, Mid-West brand tomato catsup, Thames brand prepared mustard, Mid-West brand prepared mustard, SSS brand prepared mustard, Blue Mountain prepared mustard, Trump brand prepared mustard, and Fargo prepared mustard, all of which, excepting the Fargo prepared mustard, which was misbranded only, were both adulterated and misbranded. The articles were labeled in part: (Bottle) "Honey Grove Brand Tomato Catsup * * * The Cincinnati Wholesale Grocery Co. Distributors Cincinnati and Dayton, Ohio"; (bottle) "Mid-West Brand Tomato Catsup * * * Made by Midwest Food Packers, Inc. Marion, Ind."; (jar) "Mid-West Brand Prepared Mustard * * * Distributed by Mid-West Food Packers, Inc. Fowlerton, Indiana"; (jar) "Thames Brand Prepared Mustard * * * Distributed by Thames Coffee Company Syracuse, N. Y."; (jar)

"S S S Brand Prepared Mustard * * * Distributed by Self Service Stores Chanute, Kansas"; (jar) "Blue Mountain Prepared Mustard * * * Capital Wholesale Grocery Co. Distributors Providence, R. I."; (jar) "Trump Brand Prepared Mustard * * * Packed for Eastern Whol. Gro. Co. Providence, R. I."; (invoice) "Fargo Prepared Mustard 40 cs. 80 doz. 8 oz."

Adulteration of the Honey Grove brand tomato catsup and the Mid-West brand tomato catsup (each of the three sizes of bottles of the latter, labeled "12 oz. Avd", "14 Oz. Avd.", and "6 Lb. 8 Oz. Avd.", respectively, being treated in the case as a separate article), was charged under the allegation that gum had been substituted in part for tomato catsup.

Adulteration of the Mid-West brand tomato catsup (contained in the two sizes of bottles thereof labeled "12 Oz. Avd." and "6 Lb. 8 Oz. Avd.", respectively, each size being treated in the case as a separate article) was further charged, under the allegation, directed to the contents of the smaller bottles, that the article consisted in part of a filthy and decomposed vegetable substance, and under the allegation, directed to the contents of the larger bottles, that the article consisted in part of a decomposed vegetable substance.

Adulteration of the Thames prepared mustard, the Mid-West brand prepared mustard (the latter as labeled in part, "Contents 2 Lbs."), the SSS brand prepared mustard, the Blue Mountain prepared mustard (the two sizes of jars of the latter, labeled in part, "Contents 1 lb" and "Contents 5½ oz." respectively), and the Trump brand prepared mustard, was charged, severally, under the allegation that mustard bran had been substituted in part for prepared mustard.

Misbranding of the Honey Grove brand tomato catsup and the Mid-West brand tomato catsup (the latter as labeled in part, "14 oz. Avd") was charged, severally, (a) under the allegations that there were borne and labeled on the bottles statements, to wit, "Tomato Catsup * * * Absolutely Pure", and that the statements were false and misleading in that the articles were not tomato catsup and that they were products consisting, in part, of an undeclared added substance, to wit, gum; and (b) under the allegation that the aforesaid statements were borne and labeled on the bottles so as to deceive and mislead the purchaser thereof.

Misbranding of the Mid-West brand tomato catsup, labeled in part, "12 Oz. Avd" was charged (a) under the allegations that there were borne and labeled on the bottles the statements, to wit, "Tomato Catsup * * * We guarantee This Catsup To Be Absolutely Pure", and that the said statements were false and misleading in that the article was not tomato catsup and that it was a product consisting in part of an undeclared added substance, to wit, gum, and also in part of a filthy and decomposed vegetable substance; (b) and under the allegation that the aforesaid statements were borne and labeled on the bottles so as to deceive and mislead the purchaser of the article.

Misbranding of the Mid-West brand tomato catsup (labeled "6 Lb. 8 Oz. Avd") was charged under the allegation that there was borne and labeled on the bottles the statement, to wit, "Tomato Catsup", and that the said statement was false and misleading in that the article was not tomato catsup and that it was a product consisting in part of an undeclared added substance, to wit, gum; (b) under the allegation that the aforesaid statement was borne and labeled on the bottles so as to deceive and mislead the purchaser of the article.

Misbranding of the Mid-West brand prepared mustard (the four sizes of the jars thereof labeled, in part, "Net Weight 2 Lbs.", "Contents 2 Lbs.", "Net Contents 6 Lb. 8 Oz. Avd" and "Contents 8 oz." respectively), was charged, with respect to each of the four sizes of jars, (a) under the allegations that there was borne and labeled on the jars a statement of the weight of the contents of each, and that the statement was false and misleading in that the contents of each of the jars was of less weight than represented in the statement; (b) under the allegation that the statement aforesaid was borne and labeled on the jars so as to deceive and mislead the purchaser of the article; (c) under the allegation that the quantity of the contents of each jar was not plainly and conspicuously marked thereon, in that said quantity was less than represented in the aforesaid statement and was not stated on the jar.

Misbranding of the Mid-West brand prepared mustard (the two sizes labeled in part, "Contents 2 Lbs. * * * Made By Mid-West Food Packers, Inc. Fowlerton, Ind." and "Contents 2 Lbs. * * * Made By Mid-West Food Packers, Inc. Marion, Ind.", respectively) was additionally charged, severally,

i. e., with respect to each of the two sizes of jar, (a) under the allegation that there was borne and labeled on the jars the statement, to wit, "Prepared Mustard", and that the statement was false and misleading, in that the article was not prepared mustard; (b) under the allegation that the aforesaid statement was borne and labeled on the jars so as to deceive and mislead the purchaser of the article; (c) under the allegation that the article was offered for sale under the distinctive name of another article, namely, prepared mustard.

Misbranding of the Thames brand prepared mustard was charged (a) under the allegation that there were borne and labeled on the jars the statements, to wit, "Prepared Mustard * * * Contents 2 lbs.", and that the said statements were false and misleading in that the article was not prepared mustard and that each of the jars contained less than 2 pounds of the article; (b) under the allegation that the said statements were borne and labeled on the jars so as to deceive and mislead the purchaser of the article; (c) under the allegation that the article was offered for sale under the distinctive name of another article, namely, prepared mustard; (d) and under the allegation that the quantity of the contents of each jar was not plainly and conspicuously marked thereon, in that each jar contained a quantity of less than 2 pounds and such quantity was not stated on the jar.

Misbranding of the SSS brand prepared mustard was charged (a) under the allegations that there were borne and labeled on each of the jars the statements, to wit, "Prepared Mustard" and "Contents 2 lbs.", and that the said statements were false and misleading, in that the article was not prepared mustard, and in that each of the jars contained less than 2 pounds of the article; (b) under the allegation that the aforesaid statements were borne and labeled on the jars so as to deceive and mislead the purchaser; (c) under the allegation that the article was offered for sale under the distinctive name of another article, namely, prepared mustard; (d) and under the allegation that the quantity of the contents of each jar was not plainly and conspicuously marked thereon, in that each jar contained a quantity of less than 2 pounds and such quantity was not stated on the jar.

Misbranding of the Blue Mountain prepared mustard (the two sizes of jars thereof labeled in part, "Contents 1 lb." and "Contents 5½ oz.") was charged, severally, i. e., with respect to each of the two sizes of jars, (a) under the allegation that there was borne and labeled on the jars the statement, to wit, "Prepared Mustard", and that the said statement was false and misleading in that the article was not prepared mustard; (b) under the allegation that the aforesaid statement was borne and labeled on the jars so as to deceive and mislead the purchaser of the article; (c) under the allegation that the article was offered for sale under the distinctive name of another article, namely, prepared mustard.

Misbranding of the Blue Mountain prepared mustard (the size of jars labeled in part "Contents 1 lb.") was further charged (a) under the allegation that there was borne and labeled on the jars the statement, to wit, "Contents 1 lb.", and that the said statement was false and misleading, in that each of the jars contained less than 1 pound of the article; (b) under the allegation that the aforesaid statement was borne and labeled on the jars so as to deceive and mislead the purchaser of the article; (c) under the allegation that the quantity of the contents of each jar was not plainly and conspicuously marked thereon, in that each jar contained a quantity less than 1 pound and such quantity was not declared on the jar.

Misbranding of the Trump brand prepared mustard was charged (a) under the allegations that there was borne and labeled on the jars the statement to wit, "Prepared Mustard", and that the said statement was false and misleading in that the article was not prepared mustard; (b) under the allegation that the aforesaid statement was borne and labeled on the jars so as to deceive and mislead the purchaser; (d) under the allegation that the article was offered for sale under the distinctive name of another article, namely, prepared mustard.

Misbranding of the Fargo prepared mustard was charged (a) under the allegation that the quantity of the contents of each jar was not plainly and conspicuously marked thereon and that the jars were unlabeled.

On January 13, 1936, a plea of guilty having been entered, the company was fined \$100 and costs, and the individual defendant was fined \$100.

W. R. GREGG, *Acting Secretary of Agriculture.*

25533. Misbranding of cottonseed meal. U. S. v. Perkins Oil Co. Plea of guilty. Fine \$50. (F. & D. no. 31373. Sample nos. 17796-A, 17797-A.)

This case was based on an interstate shipment of cottonseed meal that contained less protein and more crude fiber than the percentages thereof represented on the label.

On March 9, 1934, the United States attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Perkins Oil Co., a corporation, Memphis, Tenn., charging shipment by said corporation in violation of the Food and Drugs Act, on or about January 28, 1933, from the State of Texas into the State of Maryland, of quantities of cottonseed meal which was misbranded. A portion of the article was labeled: "100 Pounds Net 'Green Tag Prime' Cotton Seed Meal Guaranteed Analysis Protein, Minimum 41.00 per cent Fat, Minimum 6.00 per cent Crude Fiber, Maximum 10.00 per cent Carbohydrates 25.00 per cent Made from Cotton Seed Manufactured for Green-Mish Company Washington, District of Columbia." The remaining portion of the article was labeled: "Gold Quality Prime 43% Cotton Seed Meal Protein 43% Fat 6% Ammonia 8.37% Carbohydrates 26% 100 Lbs. Net. Shipped by E. I. Bailey, Cleveland, O. Made from Cotton Seed only."

The article was alleged to be misbranded with respect to the portion first referred to, in that the statement, "Guaranteed Analysis Protein, Minimum 41.00 per cent * * * Crude Fibre, Maximum 10.00 per cent", borne on the label, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since it represented that the article contained not less than 41 percent of protein and not more than 10 percent of crude fiber; whereas in fact the article contained less than 41 percent of protein and more than 10 percent of crude fiber. The article was alleged to be misbranded with respect to the remaining portion, in that the statement, "Protein 43% Fibre 10%", borne on the label, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since it represented that the article contained 43 percent of protein and 10 percent of fiber; whereas in fact the article contained less than 43 percent of protein and more than 10 percent of fiber.

On April 30, 1936, a plea of guilty was entered on behalf of the defendant corporation and the court imposed a fine of \$50.

W. R. GREGG, *Acting Secretary of Agriculture.*

25534. Adulteration and misbranding of Nu-Vita yeast. U. S. v. George D. Miller. Plea of guilty. Fine, \$10 and costs. (F. & D. no. 31465. Sample nos. 22025-A, 35928-A.)

This case was based on interstate shipments of two lots of a product which was represented to consist of yeast. Examination showed that it consisted essentially of corn meal with about 1 percent of yeast present. The labeling of both lots contained unwarranted claims regarding its feeding value, and a card enclosed with one shipment bore unwarranted claims regarding its alleged therapeutic properties.

On February 22, 1935, the United States attorney for the Northern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court an information against George D. Miller, Cedar Falls, Iowa, alleging shipment by said defendant in violation of the Food and Drugs Act, as amended, on or about January 23 and January 24, 1933, from the State of Iowa into the States of Colorado and Wisconsin, respectively, of quantities of Nu-Vita yeast which was adulterated and misbranded.

The article was alleged to be adulterated under the provisions of the law applicable to food in that a substance, corn meal, had been mixed and packed therewith so as to lower, reduce, and injuriously affect its quality and strength, and had been substituted in part for stock yeast, which the article purported to be. Adulteration was further alleged under the provisions of the law applicable to drugs in that the strength and purity of the article fell below the professed standard and quality under which it was sold, since it was represented to be composed essentially of yeast; whereas it was composed in large part of corn meal.

The article was alleged to be misbranded under the provisions of the law applicable to food in that the statements, "Nu-Vita Yeast", and "Nu-Vita Stock Yeast, The Utmost in Feeding Value for Livestock and Poultry", borne on the labels of both lots, and the statement, "Nu-Vita Yeast is a pure, unadulterated bacteria product free from any foreign materials or ingredients", borne on a

pink card shipped with one lot, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since it did not consist essentially of yeast but did consist in large part of corn meal, which does not represent the utmost in feeding value for livestock and poultry and it was not a pure, unadulterated bacteria product free from any foreign materials or ingredients. Misbranding was further alleged under the provisions of the law applicable to foods, in that the article was composed in large part of corn meal prepared in imitation of a product composed essentially of yeast, and was offered for sale, and sold under the distinctive name of another article, namely, yeast and stock yeast.

Further misbranding was charged under the provisions of the law applicable to drugs, in that certain statements, designs, and devices regarding its therapeutic and curative effects, appearing on a white card shipped with one lot, falsely and fraudulently represented that the article was effective as a treatment, remedy, and cure for white diarrhea, coccidiosis in poultry, and necro and scours in swine.

On December 3, 1935, the defendant entered a plea of guilty and the court imposed a fine of \$10 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25535. Misbranding of jellies and preserves. U. S. v. Wooster Preserving Co., a corporation. Plea of nolo contendere. Fine, \$400 and costs. (F. & D. no. 31527. Sample nos. 4605-A, 32808-A, 32809-A, 32810-A, 32811-A, 32813-A, 32814-A, 32815-A, 32816-A, 32817-A.)

The containers of these articles bore labels that erroneously represented the weight of their contents.

On June 21, 1934, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Wooster Preserving Co., a corporation, Wooster, Ohio, alleging shipment by it, in violation of the Food and Drugs Act, as amended, in the period from September 20, 1932, to February 18, 1933, from Wooster, Ohio, to Fort Wayne, Ind., and Pittsburgh, Pa., of quantities of jellies and preserves that were misbranded. The articles were labeled, severally, in part: (Jar) "Apple & Strawberry Net Weight 8 Oz. Avd. Pure Sugar Jelly Packed By The Wooster Preserving Co. Wooster, Ohio."; (can) "Red Raspberry Preserves * * * 8½ Lbs.-W"; (can) "Strawbry Preserves * * * Contents 8½ Lbs.-W"; (can) "Peach Preserves * * * Contents 8½ Lbs.-W"; (can) "Apricot Preserves * * * Contents 8½ Lbs.-W"; (can) "Apple-Currant Jelly * * * Contents 8½ Lbs."; (can) "Apple-Strawberry Jelly * * * Contents 8½ Lbs."; (can) "Apple-Grape Jelly * * * Contents 8½ Lbs."; (can) "Apple-Raspberry Jelly * * * Contents 8½ Lbs."

Misbranding of the apple and strawberry jelly was charged (a) under the allegations that the labels on the jars bore the statement, to wit, "Net Weight 8 Oz.", that each of the jars contained an amount less than 8 ounces, and that the said statement was false and misleading; (b) under the allegation that the article was labeled as aforesaid so as to deceive and mislead the purchaser; (c) under the allegation that the article was in package form and that the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

Misbranding of each of the nine other articles was severally charged (a) under the allegations that the labels on the cans bore the statement, to wit, "8½ Lbs.", that each of the cans contained an amount less than 8½ pounds, that the said statement was false and misleading; (b) under the allegation that the article was labeled as aforesaid so as to deceive and mislead the purchaser; (c) under the allegation that the article was in package form and that the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On March 21, 1936, a plea of nolo contendere having been entered, a fine of \$400 was imposed, with costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25536. Alleged adulteration of cold-pack strawberries. U. S. v. 359 Barrels of Cold-Pack Strawberries. Libel dismissed. (F. & D. no. 31565. Sample no. 49993-A.)

Decomposed fruit was alleged to be present in this product.

On November 9, 1933, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 359 barrels of

cold-pack strawberries at Erie, Pa., alleging that the article had been shipped in interstate commerce in June 1933, by the Brocton Preserving Co., from Brocton, N. Y., to Erie, Pa., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Stenciled on barrel) "C. P. Strawberries Three and one [or Two and one] Four hundred lbs. net [or Four hundred fifty lbs. net] Seven Three two one."

Adulteration of the product was charged under the allegation that it consisted in whole or in part of a decomposed vegetable substance.

Goldmeyer & Arnold, Inc., New York, N. Y., appeared as claimant and answered the libel, annexing to the answer 14 interrogatories propounded to the libellant. The Government moved to strike the interrogatories. On December 18, 1934, an order striking them was entered, pursuant to a memorandum by the court which contained a paragraph as follows: "Upon consideration of the matter we are of opinion that Admiralty Rule No. 31 is not applicable to libels under the Food and Drugs Act. 443 Cans of Egg Product v. United States, 226 U. S., 173."

On November 25, 1935, a decree dismissing the libel was entered pursuant to findings and conclusions by the court, as follows:

GIBSON, *District Judge*: The court makes the following Finding of Facts. 1. The 359 barrels of Cold Pack Strawberries, seized pursuant to libel, did not consist wholly or in part of decomposed vegetable substance.

Conclusions of Law. 1. The 359 barrels of Cold Pack Strawberries, seized pursuant to the libel, were not adulterated as contemplated by Section 7 of the Food and Drugs Act, Paragraph 6.

2. The libel must be dismissed.

No appeal.

W. R. GREGG, *Acting Secretary of Agriculture*.

25537. Misbranding of preserves. U. S. v. Goodwin Preserving Co., Inc. Tried to the court; judgment of guilty. Fine, \$200 and costs. (F. & D. no. 32109. Sample nos. 15490-A, 15491-A, 15493-A, 15494-A.)

This case was based on an interstate shipment of preserves which were short of the weight declared on the label.

On June 12, 1934, the United States attorney for the Western District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Goodwin Preserving Co., Inc., alleging shipment by said company in violation of the Food and Drugs Act, as amended, on or about February 10, 1933, from the State of Kentucky into the State of Indiana of quantities of preserves which were misbranded. The article was labeled in part: "Perry's Verified Food Products, Contents 15 oz. Apricot [etc.] Preserves Distributed by J. C. Perry & Company, Indianapolis, Ind."

On September 7, 1934, the defendant having filed a motion to dismiss the information, the court made the following ruling:

DAWSON, *Judge*: This case came on to be heard on the defendant's motion to dismiss this cause on the grounds that the "Bill of Complaint" (Information) does not constitute a cause of action against the defendant and is wholly insufficient at law.

Said Motion was argued by counsel for the defendant who contended that no cause of action is stated because the Food & Drugs Act is unconstitutional.

The Court treats the Motion to Dismiss as a General Demurrer to the Information, and after considering same, being advised,

It is Ordered by the Court that said Demurrer insofar as it attacks the constitutionality or validity of the Act of Congress of June 30, 1906, known as the Food & Drugs Act, be and it is hereby overruled.

It is Further Ordered by the Court that the demurrer be and it is hereby sustained in this: that the Information is not sufficient by reason of the fact that it fails to show that the alleged discrepancies between the actual weight and the branded weight were in excess of the tolerance and variation authorized by the Rules and Regulations of the Department of Agriculture.

The plaintiff is permitted to amend the Information in this respect.

The United States, by counsel, excepts to the foregoing ruling insofar as it sustains the Demurrer in part as aforesaid.

On September 7, 1934, the information was amended.

It was charged in the information, as amended, that the article was misbranded in that the statement "Contents 15 Oz.", borne on the label, was false and misleading, and in that it was labeled so as to deceive and mislead the purchaser, since the jars contained less than 15 ounces of the article.

Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, and the discrepancies between the actual weight and the branded weight of the contents of the jars exceeded the tolerance provided under Regulation 26 of the United States Department of Agriculture.

On September 25, 1935, the case was tried to the court and judgment of guilty was entered, a fine of \$200 was imposed, and costs were assessed against the defendant.

W. R. GREGG, *Acting Secretary of Agriculture.*

25538. Adulteration and misbranding of preserves. U. S. v. The William Edwards Co., a corporation. Pica of nolo contendere. Fine, \$400. (F. & D. no. 32115. Sample nos. 18206-A, 18207-A, 18208-A, 18209-A, 18210-A, 18211-A, 18212-A, 18213-A, 33302-A, 33303-A, 33304-A, 33305-A, 33306-A.)

The quality of these products was injuriously affected by the quantity of sugar mixed with them and a substance had been substituted for what the products purported to be, namely, preserves.

On July 27, 1934, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the William Edwards Co., a corporation, Cleveland, Ohio, alleging shipments by it, in violation of the Food and Drugs Act as amended, on or about September 13, 1932, and September 20, 1932, from Cleveland, Ohio, to Birmingham, Ala., of quantities of preserves that were adulterated. The articles were labeled in part, severally, as follows: (Jars) "Pure Strawberry Preserves * * * The William Edwards Co. Producers Cleveland, Ohio"; (jars) "Pure Peach Preserves"; (jars) "Pure Cherry Preserves"; (jars) "Pure Red Raspberry Preserves"; (jars) "Pure Raspberry Preserves"; (jars) "Pure Cherry Preserves"; (jars) "Pure Blackberry Preserves."

Adulteration of the several products was severally charged (a) under the allegation that sugar had been mixed and packed with the product so as to reduce, lower, and injuriously affect its quality and strength as preserves; (b) under the allegation that a mixture of fruit and sugar, which contained less fruit than preserves, had been substituted for that which the article purported to be.

Misbranding of the several products was severally charged (a) under the allegations that the label attached to the jars bore the statement, to wit, "Pure * * * Preserves" that the product consisted in part of sugar and contained less fruit than preserves and that the said statement was false and misleading; (b) under the allegation that the article was labeled as aforesaid so as to deceive and mislead the purchaser; (c) under the allegation that the article was offered for sale under the distinctive name of another article, namely, "Pure * * * Preserves."

On March 21, 1936, a plea of nolo contendere having been entered, a fine of \$400 was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25539. Adulteration and misbranding of alleged butter. U. S. v. John F. Seymour and John F. Seymour, Jr. Pleas of guilty. Fines, \$600. (F. & D. no. 32197. Sample no. 43257-A.)

This case was based on an interstate shipment of oleomargarine which was represented to be creamery butter.

On August 12, 1935, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against John F. Seymour and John F. Seymour, Jr., residents of Baltimore, Md., or New York, N. Y., alleging shipment by said defendants, on June 9, 1933, from the State of New Jersey into the State of New York, of a quantity of a product purported to be creamery butter which was adulterated and misbranded in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that oleomargarine had been substituted wholly for creamery butter, which the article purported to be.

Misbranding was alleged for the reason that the article was an imitation of another article, and was offered for sale under the distinctive name of another article, namely, creamery butter.

On December 2, 1935, pleas of guilty were entered and the court imposed a fine of \$300 against each defendant.

W. R. GREGG, *Acting Secretary of Agriculture.*

25540. Adulteration and misbranding of Old Rhum Rhum Ayala A-1-1. U. S. v. 73 Cases of Old Rhum Rhum Ayala A-1-1. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 32709. Sample nos. 60770-A, 60771-A.)

Neutral spirits were substituted for rum, which this article purported to be, and the label misrepresented its composition.

On May 15, 1934, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 73 cases of Old Rhum Rhum Ayala A-1-1 at Seattle, Wash., alleging that the article had been shipped in interstate commerce, on or about December 20, 1933, and January 8, 1934, from Manila, P. I., to Seattle Wash., and charging adulteration and misbranding in violation of the Food and Drugs Act. The shipments were made by the Distilleries Ayala, Inc., Manila, P. The article was labeled in part: (Case) "Old Rhum Rhum Ayala A-1-1, Alcohol 40% by Volume, Net Contents 1 pt. 8 1/4 Fl. Oz., Mfd. in Philippine Islands Distilleries Ayala, Inc."

Adulteration of a consignment of 43 cases of the article was charged, under the allegation that neutral spirits had been substituted in part for rum and the consignment of 30 cases was alleged to be adulterated in that neutral spirits had been substituted wholly for rum.

Misbranding of the article was charged, with respect to each of the two consignments of 43 and 30 cases, respectively, (a) under the allegations that the labels on the bottles bore the statement "Old Rhum"; and that the said statement was false and misleading and tended to deceive and mislead the purchaser; and (b) under the allegation that the article was offered for sale under the distinctive name of another article, namely, "Old Rhum."

On February 10, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25541. Adulteration and misbranding of honey. U. S. v. Joseph Milnarich and Paul Milnarich, a partnership trading as Milnarich Bros. Plea of guilty. Fine, \$100. (F. & D. no. 32894. Sample no. 63877-A.)

This case was based on an interstate shipment of honey which contained added glucose and sugar, and the packages of which were short in weight.

On August 17, 1934, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Joseph Milnarich and Paul Milnarich, a partnership trading as Milnarich Bros., River Rouge, Mich., charging shipment by said defendants, in violation of the Food and Drugs Act, on or about October 28, 1933, from the State of Michigan into the State of Ohio, of a quantity of honey contained in jars that was adulterated and misbranded. The article was labeled: "Eatmore [design showing four bees on a head of red clover] Four Bros. Pure Honey Net Wt. Milnarich Bros. River Rouge, Mich. ["6 Oz." in ink over word "Mich."]."

The article was alleged to be adulterated in that substances, sugar and glucose, had been mixed and packed with the article so as to reduce, lower, and injuriously affect its quality, and in that added substances, sugar and glucose, had been substituted in part for pure honey which the article purported to be.

The article was alleged to be misbranded in that the statements, "Pure Honey" and "Net Wt. 6 Oz.", borne on the jars, were false and misleading, and in that by reason of said statements the article was labeled so as to deceive and mislead the purchaser, since the statements, respectively, represented that the article was pure honey, and that the quantity of the article in each of the jars was 6 ounces; whereas in fact the article was not pure honey, but was a product consisting largely of added glucose and sugar, and the quantity of the article in each of the jars was less than 6 ounces. Misbranding of the article was alleged further in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity of the article contained in the packages was less than 6 ounces, the quantity stated thereon.

On February 16, 1935, a plea of guilty was entered on behalf of the defendant company, and on December 12, 1935, the court imposed a fine of \$100.

W. R. GREGG, *Acting Secretary of Agriculture.*

25542. Adulteration of canned salmon. U. S. v. Henry J. Emard, trading as Emard Packing Co. Plea of guilty. Fine \$200 with costs. (F. & D. no. 32907. Sample nos. 54878-A, 54888-A.)

A decomposed substance was a part of this product.

On October 24, 1934, the United States attorney for the District of Alaska, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Henry J. Emard, trading as Emard Packing Co., Anchorage, Alaska, alleging shipment in violation of the Food and Drugs Act as amended, on or about July 24, 1933, from Anchorage, Alaska, to Seattle, Wash., of quantities of canned salmon that was adulterated. The product was unlabeled, but the cases bore certain code markings, to wit, "Talls HH K-47" on some, and "Talls HH 46" and other markings on others.

Adulteration of the article was charged under the allegation that it consisted in part of a decomposed animal substance.

On December 23, 1935, a plea of guilty having been entered, the defendant was fined \$200 with costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25543. Adulteration of butter. U. S. v. Newman Grove Cooperative Creamery Co., Inc. Plea of guilty. Fine, \$10 and costs. (F. & D. no. 33777. Sample no. 67377-A.)

This product was represented to be butter, but it contained less than 80 percent by weight of milk fat.

On October 19, 1934, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Newman Grove Cooperative Creamery Co., Inc., a corporation, Newman Grove, Nebr., alleging shipment in violation of the Food and Drugs Act as amended, on or about March 8, 1934, from Omaha, Nebr., to New York, N. Y., of a number of tubs containing an article of food, billed as butter, that was adulterated. The article was labeled in part: (Tub) "3648 New York 4 4%."

Adulteration of the product was charged under the allegations that it purported to be butter; that the product contained less than 80 percent by weight of milk fat; and that a product that contained less than said percentage of milk fat had been substituted for what the article purported to be, namely, butter.

The defendant pleaded not guilty in an "answer" in which it alleged (a) that it had acted "without any fault, negligence, criminal intent, or wrongful intent of any kind whatsoever" and (b) that it "had been placed in jeopardy." The answer was without a statement of facts as a basis for the second of these allegations. However, it otherwise appears that in a precedent libel a number of the tubs of butter in the shipment which was the basis for the charge preferred in the information had been seized, and subsequently reconditioned pursuant to a provision in a judgment of condemnation and forfeiture, at an expense to the defendant of \$160.12. The Government demurred to the answer. The court sustained the demurrer in a memorandum opinion, as follows:

ДОВОДОМ, *District Judge*: There has been submitted to the Court the demurrer of the United States of America to the answer of the defendant. This demurrer searches the entire record. The defendant contends that the information is not sufficient to charge an offense under the provisions of the act known as "Foods and Drugs Act", while the Government contends that the information is sufficient, and the matter set forth in the answer does not constitute a defense.

The charging part of the information is that the defendant did within the jurisdiction of this court unlawfully ship and deliver for shipment, a consignment of tubs containing an article of food billed as butter, then follows the charge that the articles of food so billed did not meet the requirement of the act defining butter within the terms thereof.

The provisions of the Food and Drug Act, Title 21 U. S. C. A. paragraph 2, in so far as it applies to this case, prohibits the introduction into any state or territory, from any other state or territory, any article of food which is adulterated or misbranded, and provides that any person who shall ship or deliver for shipment from any state or territory to any other state or territory, or who shall receive in any state or territory, and having so received shall deliver, etc. In this case, we think the information sufficiently charges the delivery of this article of food for shipment within the jurisdiction of this Court. The receiving and delivery of the shipment would constitute a separate offense within the New York jurisdiction.

The information does not charge the offense of misbranding and consequently we hold that the information is sufficient to charge the offense of delivery for shipment in interstate commerce.

The allegations of the answer in effect allege lack of knowledge or intent on the part of the shipper. The Food and Drug Acts is regulatory, and the offenses created thereby are misdemeanors. They are not offenses in which moral turpitude is an ingredient, and consequently lack of knowledge or intent on the part of the shipper in this case would not constitute a defense. *U. S. v. Spragg*, et al., 208 Fed. 419; *U. S. v. 13 Crates of Frozen Eggs*, 215 Fed. 584.

The demurrer of the plaintiff to the answer will therefore be sustained.

On March 17, 1936, a plea of guilty having been entered, a fine of \$10 and costs was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25544. Adulteration and misbranding of bran. U. S. v. The Fairchild Milling Co., a corporation. Plea of nolo contendere. Fine, \$100 and costs. (F. & D. no. 33799. Sample nos. 14134-A, 14148-A, 68561-A.)

This product contained screenings and scourings but was represented to be made from cleaned wheat.

On November 26, 1934, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Fairchild Milling Co., a corporation, Cleveland, Ohio, alleging shipment in violation of the Food and Drugs Act as amended, on or about August 29, 1933, August 30, 1933, and October 25, 1933, from Cleveland, Ohio, to several places in Maryland, and to York, Pa., of quantities of Atlantic States bran that was adulterated and misbranded. The article was labeled in part: (Bag tag) "Atlantic States Bran Made From Cleaned Wheat * * * Manufactured For Eastern Grain Growers Hagers-town, Md."

Adulteration of the article was charged under the allegation that a substance, to wit, screenings and scourings, had been substituted in part for the article.

Misbranding of the article was charged (a) under the allegations that the tags attached to the bags bore the statement, "Bran Made from Cleaned Wheat", that the article consisted in part of screenings and scourings, that the said statement was false and misleading in that it represented that the article consisted solely of bran made from cleaned wheat; (b) under the allegation that the said statement was borne on the tags so as to deceive and mislead the purchaser of the article; (c) under the allegation that the article was offered for sale under the distinctive name of another article, namely, bran.

On March 21, 1936, a plea of nolo contendere having been entered, a fine of \$100 and costs was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25545. Alleged misbranding of salad oil. U. S. v. Agash Refining Corporation and Chester A. Gash and Mack S. Lehman. Tried to the court. Judgment dismissing information. (F. & D. no. 33871. Sample nos. 52133-A, 52134-A, 52143-A, 52147-A, 67402-A.)

On January 22, 1935, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Agash Refining Corporation, Brooklyn, N. Y., and Chester A. Gash and Mack S. Lehman, officers of the corporation, alleging shipment by said defendants in violation of the Food and Drugs Act on or about November 28, December 8, December 16, 1933, and January 12, 1934, from the State of New York into the State of New Jersey, of quantities of salad oil that was misbranded. The article was labeled in part: "San Gennaro Brand * * * Agash Refining Corp. Brooklyn, N. Y."

Misbranding of the article was charged under the allegations that the statements, "Extra Fine Oil", "Olio Extra Fino", and "Olive Oil * * * The Olive Oil contained in this can is pressed from fresh picked fruit—it is specially adapted for medicinal and table use and guaranteed to be absolutely pure", together with a design of a shield surmounted by a crown and accompanied by designs of medals and olive branches, borne on the can labels, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the said statements and the designs represented that the article consisted wholly of pure imported olive oil; whereas it did not consist wholly of pure imported olive oil but was domestic cottonseed oil containing little olive oil, if any, and containing an artificial flavoring substance in imitation of olive oil. Misbranding was charged under the further

allegation that the article was an imitation of another article and was offered for sale under the distinctive name of another article, namely, olive oil.

On April 18, 1935, a jury having been waived, the case was tried to the court and the information was dismissed on the ground that there was no misbranding beyond a reasonable doubt.

W. R. GREGG, *Acting Secretary of Agriculture.*

25546. Misbranding of cottonseed meal and cottonseed cake. U. S. v. Southland Cotton Oil Co. Plea of guilty. Fine \$625. (F. & D. no. 33950. Sample nos. 8168-B, 8174-B, 8175-B, 27415-B, 27420-B.)

This case was based on interstate shipments of cottonseed products which contained less protein than declared on the label.

On July 9, 1935, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Southland Cotton Oil Co., a corporation, Waxahachie, Tex., alleging shipment by said company in violation of the Food and Drugs Act on or about August 7, August 29, October 26, December 6, and December 29, 1934, from the State of Texas into the State of Kansas of quantities of cottonseed meal and cottonseed cake which were misbranded. A portion of the article was labeled, variously, in part: "'Army' Brand Prime Cotton Seed Cake and Meal * * * Guaranteed Analysis Protein, not less than 43.00% * * * Louis Toblan & Co."; "Guaranteed Analysis Protein not less than 43% * * * Manufactured for Kansas City Cake and Meal Co. * * * Kansas City, Mo."; "43% Protein Cottonseed Cake or Meal Prime Quality Manufactured by Southland Cotton Oil Co. Waxahachie, Texas Guaranteed Analysis: Crude Protein (not less than) 43%."

The article was alleged to be misbranded in that the statements, "Guaranteed Analysis Protein not less than 43%", "43% Protein", and "Guaranteed Analysis: Crude Protein (not less than) 43%", borne on the tags attached to the sacks containing the article, were false and misleading and for the further reason that it was labeled so as to deceive and mislead the purchaser since it contained less than 43 percent of protein.

On February 18, 1936, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$625.

W. R. GREGG, *Acting Secretary of Agriculture.*

25547. Adulteration of tomato puree and tomato pulp. U. S. v. Angelo Glorioso. Plea of guilty. Fine, \$50. (F. & D. no. 34010. Sample nos. 62040-A, 66358-A, 66359-A, 66361-A, 66362-A.)

This case was based on interstate shipments of tomato puree and tomato pulp which contained excessive mold. Samples of the tomato pulp also were found to contain larvae.

On June 5, 1935, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Angelo Glorioso, trading at New Orleans, La., and Miami, Fla., alleging shipment by said defendant in violation of the Food and Drugs Act on or about December 23, 1933, February 24, and March 10, 1934, from the State of Louisiana into the State of Alabama of quantities of tomato puree and on or about March 31, 1934, from the State of Florida into the State of Louisiana of a quantity of tomato pulp, which products were adulterated. The tomato puree was labeled in part: "Eagle Brand Packed by A. Glorioso, New Orleans, La. Tomato Puree." The tomato pulp was unlabeled.

The tomato puree was alleged to be adulterated in that it consisted in part of decomposed vegetable substance. The tomato pulp was alleged to be adulterated in that it consisted in part of a decomposed vegetable substance and some filthy animal substance, namely, larvae and parts of larvae.

On February 19, 1936, the defendant entered a plea of guilty and the court imposed a fine of \$50.

W. R. GREGG, *Acting Secretary of Agriculture.*

25548. Adulteration and misbranding of alcoholic candy. U. S. v. Lewis Cooper (The Berkshire Co.). Plea of guilty. Fine, \$10. (F. & D. no. 34017. Sample nos. 19086-A, 19087-A, 50572-A, 56516-A, 56517-A, 56518-A, 61561-A, 61566-A, 65032-A.)

This case was based on several interstate shipments of confectionery which contained alcohol. The packages failed to bear a statement of the quantity of the contents and the labels of several of the lots bore the false and misleading statement that the product was not a confection.

On June 6, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Lewis Cooper, trading as the Berkshire Co., Chicago, Ill., alleging shipment by said defendant in violation of the Food and Drugs Act, as amended, between the dates of December 21, 1933, and February 12, 1934, from the State of Illinois into the States of Minnesota, Kentucky, Texas, Ohio, and Michigan, of quantities of candy which was adulterated and misbranded. A portion of the article was labeled, "Renaissance Confiserie 35 Pieces Liqueur Chocolat"; and a portion was labeled: "Richelieu Chocolat a Liqueur Parisian Cordial Filled Candy." The remainder was labeled: "Twenty-four Pieces Cordials (Not a Confection)."

The article was alleged to be adulterated under the provisions of the law applicable to confectionery in that it contained spirituous liquor.

The article was alleged to be misbranded in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since some of the packages bore no statement of the quantity of the contents and since the statement made on the remaining packages of the number of pieces contained therein did not give accurate information as to the quantity of the contents and the said packages did not come within the tolerances and exemptions from marking provided for small packages. Misbranding was alleged with respect to portions of the article for the further reason that the statement, "not a confection", was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since the article was a confection.

On February 10, 1936, the defendant entered a plea of guilty and the court imposed a fine of \$10.

W. R. GREGG, *Acting Secretary of Agriculture.*

25549. Adulteration of butter. U. S. v. Nicolas S. Jacobsen and Leo Jacobsen (Dexter Creamery Co.). Plea of guilty. Fine, \$20. (F. & D. no. 34040. Sample no. 16723-B.)

This case involved a shipment of butter that contained less than 80 percent of milk fat.

On January 28, 1936, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Nicolas S. Jacobsen and Leo Jacobsen, copartners trading as the Dexter Creamery Co., Dexter, Minn., alleging shipment by said defendants in violation of the Food and Drugs Act, on or about August 29, 1934, from the State of Minnesota into the State of New York, of a quantity of butter that was adulterated.

The article was alleged to be adulterated in that a substance containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as required by the act of Congress of March 4, 1923, which the article purported to be.

On January 28, 1936, Nicolas S. Jacobsen was arraigned and entered a plea of guilty on behalf of the concern, and a fine of \$20 was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25550. Adulteration of butter. U. S. v. Peter J. Goetzinger (Bellevue Creamery). Plea of guilty. Fine, \$50 and costs. (F. & D. no. 34048. Sample no. 65737-A.)

This case was based on an interstate shipment of butter that contained less than 80 percent of milk fat.

On July 16, 1935, the United States attorney for the Northern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Peter J. Goetzinger, trading as Bellevue Creamery, Bellevue, Iowa, charging shipment by said defendant in violation of the Food and Drugs Act, on or about June 9, 1934, from the State of Iowa into the State of Illinois of a quantity of butter which was misbranded. The article was labeled in part: "Hunter Walton & Co. Chicago. * * * 63 Lbs."

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat, as required by the act of Congress of March 4, 1923, which the article purported to be.

On April 29, 1936, the defendant entered a plea of guilty and the court imposed a fine of \$50 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

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¹ Contains an opinion of the court.

² Contains a ruling of the court.

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FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

25551-25650

[Approved by the Acting Secretary of Agriculture, Washington, D. C., September 9, 1936]

25551. Adulteration of tomato paste, tomato puree, and tomato catsup; and misbranding of tomato paste. U. S. v. Brocton Preserving Co., Inc. Plea of guilty. Fine, \$160. (F. & D. no. 34060. Sample nos. 68388-A, 71634-A, 14600-B, 21570-B, 25876-B, 25952-B, 26049-B, 29042-B.)

A decomposed substance was found in each of these products. One of them was so colored as to conceal damage, and the label of another bore an erroneous statement concerning its color.

On October 7, 1935, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Brocton Preserving Co., Inc., Brocton, N. Y., alleging shipments in violation of the Food and Drugs Act as amended, in the period from October 18, 1933, to May 21, 1935, from Brocton, N. Y., in one instance, and from Fredonia, N. Y., in all the other instances, to places in Connecticut, Massachusetts, Rhode Island, and Vermont of quantities of tomato paste, tomato puree, and tomato catsup of which the tomato paste was adulterated and misbranded and the two other articles were adulterated. The articles were labeled in part: (Can) "Fedora Italian Style Tomato Paste * * * Contents 6 Oz. Avoir. * * * Salsa Pura Di Pomodoro Con Basilico Packed By Brocton Preserving Co. Brocton, New York"; (can) "Oswego Brand Tomato Puree Contents 6 Lb. 8 Oz. * * * Oswego Preserving Co. Oswego, N. Y. Distributors"; (can) "Brocton Brand Contents 7 Lbs. 2 Ozs. Net Tomato Ketchup Brocton Preserving Co., Brocton, N. Y."; (can) "Fedora Italian Style Tomato Paste Harmless Color Added."

Adulteration of the paste, puree, and the catsup was charged under the allegation, with respect to each, that it consisted in part of a decomposed vegetable substance. Adulteration of the paste was further charged (a) under the allegation that it was colored in a manner whereby its damage and inferiority were concealed; (b) under the allegation that a product containing no basil had been substituted for said article.

Misbranding of the paste was charged (a) under the allegations that there were borne on the cans the statements, to wit, "Tomato Paste * * * Salsa Pura Di Pomodoro", that the said statements represented the article to be naturally colored tomato paste, and that the said statements were false and misleading; and (b) under the allegation that the aforesaid statements were borne on the cans so as to deceive and mislead the purchaser of the article.

On January 14, 1936, a plea of guilty having been entered, a fine of \$160 was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25552. Misbranding of peanut butter. U. S. v. Martin Peanut Products Corporation. Plea of guilty. Fine, \$15. (F. & D. no. 34068. Sample nos. 3727-B, 3730-B.)

This case was based on a shipment of peanut butter which was short in weight.

On July 3, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Martin Peanut Products Corporation,

Chicago, Ill., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about August 1, 1934, from the State of Illinois into the State of Minnesota, of a quantity of peanut butter which was misbranded. The article was labeled in part: (Jar) "Two pounds Net Weight Economy Peanut Butter Manufactured by Martin Peanut Products Corporation, Chicago—New York."

The article was alleged to be misbranded in that the statement, "Two Pounds Net Weight", borne on the jar label, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since the jars contained less than 2 pounds of the article. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

On February 14, 1936, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$15.

W. R. GREGG, *Acting Secretary of Agriculture.*

25553. Adulteration and misbranding of butter. U. S. v. Downsville Cooperative Creamery Co. Plea of guilty. Fine, \$25. (F. & D. no. 34070. Sample no. 65725-A.)

This case was based on an interstate shipment of butter that contained less than 80 percent by weight of milk fat.

On August 5, 1935, the United States attorney for the Western District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Downsville Cooperative Creamery Co., a corporation of Downsville, Wis., alleging shipment by said company in violation of the Food and Drugs Act on or about June 2, 1934; from the State of Wisconsin into the State of Illinois of a quantity of butter that was adulterated and misbranded. The article was labeled "Sweet Butter."

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat, as required by the act of Congress of March 4, 1923, and which the article purported to be.

Misbranding was alleged for the reason that the statement "Butter", borne on the label, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since the article was not butter in that it contained less than 80 percent by weight of milk fat, the standard for butter prescribed by law.

On March 6, 1936, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$25.

W. R. GREGG, *Acting Secretary of Agriculture.*

25554. Adulteration of butter. U. S. v. R. E. Cobb Co., a corporation. Plea of guilty. Fine, \$100. (F. & D. no. 34075. Sample no. 2218-B.)

Samples of this product were found to contain human hairs, a cow hair, rodent hairs; fragments of insects including wings, legs, and thoraxes; fragments of feathers; and numerous particles of nondescript dirt.

On October 15, 1935, the United States attorney for the District of North Dakota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the R. E. Cobb Co., a corporation, Valley City, N. Dak., alleging shipment in violation of the Food and Drugs Act, as amended, on or about July 30, 1934, from Valley City, N. Dak., to Chicago, Ill., of quantities of butter which was adulterated. The labels on the tubs bore various churn numbers and the statement "63 Pounds Net."

Adulteration of the article was charged (a) under the allegations that the article purported to be butter, that it did not contain 80 percent by weight of milk fat, that a product containing less than 80 percent by weight of milk fat had been substituted for butter, which the article purported to be; (b) under the allegation that the article consisted in whole and in part of a filthy animal substance.

On February 11, 1936, a plea of guilty having been entered, a fine of \$100 was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25555. Adulteration of tomato puree. U. S. v. Louis Di Marco (Great Lakes Packing Co.). Plea of guilty. Fine, \$100. (F. & D. no. 34078. Sample no. 25835-B.)

This product contained excessive mold.

On August 13, 1935, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Louis DiMarco, trading as Great Lakes Packing Co., Farnham, N. Y., alleging shipment by him, in violation of the Food and Drugs Act, as amended, on or about September 24, 1934, from Farnham, N. Y., to Boston, Mass., of quantities of tomato puree that was adulterated. The article was labeled in part: (Cans) "Contents 6 lbs. 8 ozs. Our Finest Quality Old Gold Brand Tomato Puree."

Adulteration of the article was charged under the allegation that it consisted in whole and in part of a decomposed vegetable substance.

On March 12, 1936, a plea of guilty having been entered, a fine of \$100 was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25556. Misbranding of cottonseed meal. U. S. v. Transit Milling Co. Plea of guilty. Fine, \$75. (F. & D. no. 34083. Sample nos. 8158-B, 27405-B, 63721-A.)

This case was based on shipments of cottonseed meal, a part of which contained less protein than declared on the label and part of which was short in weight.

On July 20, 1935, the United States attorney for the Eastern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Transit Milling Co., a corporation, Sherman, Tex., alleging shipment by said company in violation of the Food and Drugs Act as amended on or about May 17, July 23, and July 31, 1934, from the State of Texas into the State of Kansas, of quantities of cottonseed meal which was misbranded. The article was labeled in part, variously: "Guaranteed Analysis Protein, not less than 43% * * * Manufactured for Kansas City Cake & Meal Co., * * * Kansas City, Mo."; "Guaranteed Analysis Protein, not less than 43% * * * Choctaw Sales Company * * * Kansas City, Missouri"; "Tranco Brand * * * Cottonseed Cake or Meal * * * Manufactured by Transit Milling Co. Sherman, Texas—Galveston, Texas—Cairo, Illinois." All lots were labeled "100 Pounds Net."

A portion of the article was alleged to be misbranded in that the statement, "Guaranteed Analysis Protein not less than 43%", borne on the tags attached to the sacks containing the article, was false and misleading and for the further reason that it was labeled so as to deceive and mislead the purchaser since it contained less than 43 percent of protein. Misbranding was alleged with respect to the remainder of the article for the reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since some of the sacks contained not more than 97.25 pounds and the average net weight of all of a large number of sacks examined was not more than 98 pounds and the amount of the article contained in the sacks was not declared on the label.

On December 9, 1935, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of \$75.

W. R. GREGG, *Acting Secretary of Agriculture.*

25557. Misbranding of alfalfa leaf meal. U. S. v. National Mineral Products Co., Ltd. Plea of guilty. Fine, \$30. (F. & D. no. 34089. Sample nos. 8329-B, 8330-B, 8331-B.)

This case was based on shipments of a product represented to be alfalfa leaf meal. Examination showed that it consisted of a mixture of leaf and stem meal, and that it contained less protein and more crude fiber than declared on the label.

On August 14, 1935, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the National Mineral Products Co., Ltd., a corporation, San Francisco, Calif., alleging shipment by said company in violation of the Food and Drugs Act, on or about June 26 and July 14, 1934, from the State of California into the State of Maryland, and on or about July 25, 1934, from the State of California into the State of Pennsylvania, of quantities of alfalfa leaf meal that was misbranded. The article was labeled in part:

"California Alfalfa Leaf Meal Alfaleaf Brand Manufactured by National Mineral Products Co., Ltd., * * * San Francisco, Calif. Guaranteed analysis—Crude Protein, Not less than 20 percent. * * * Crude Fibre, not more than 18.00 per cent."

The article was alleged to be misbranded in that the statements, "California Alfalfa Leaf Meal", and "Alfaleaf Brand * * * Guaranteed Analysis Crude Protein, not less than 20.00 per cent * * * Crude Fibre, not more than 18.00 per cent", borne on the label, were false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since it did not consist of leaf meal but did consist of a mixture of leaf and stem meal, and it contained less than 20 percent of crude protein and more than 18 percent of crude fiber. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article, namely, leaf meal.

On January 10, 1936, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$30.

W. R. GREGG, *Acting Secretary of Agriculture.*

25558. Adulteration of canned tuna and misbranding of canned mackerel. U. S. v. Cohn-Hopkins, Inc. Plea of guilty. Fine, \$100. (F. & D. no. 34090. Sample nos. 15891-B, 26793-B, 29107-B, 31627-B, 31628-B, 33302-B, 33303-B.)

This case was based on interstate shipments of canned tuna that was in part decomposed, and canned mackerel that was short in weight.

On February 11, 1936, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Cohn-Hopkins, Inc., San Diego, Calif., alleging shipment by said company in violation of the Food and Drugs Act, as amended, on or about December 1, 1934, from the State of California into the State of Michigan of a quantity of mackerel which was misbranded, and on or about January 4, January 31, April 17, and April 27, 1935, from the State of California into the States of Arizona, Illinois, and Oregon of quantities of canned tuna which was adulterated. The articles were labeled variously: "Wood's Quality Brand * * * Mackerel Fillet * * * Contents 7 oz. Packed by Cohn-Hopkins, Inc."; "Golden Strand Brand [or "Our Quality Brand"]", California Light Meat Tuna * * * Packed by Cohn-Hopkins, Inc."; "Natfisco Brand, Ocean's Best Light Meat Tuna * * * National Fisheries Ltd. Distributors, Chicago."

The canned tuna was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

The canned mackerel was alleged to be misbranded in that the statement "contents 7 oz.", borne on the label, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since the cans contained less than 7 ounces. Misbranding of the canned mackerel was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On February 24, 1936, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$100.

W. R. GREGG, *Acting Secretary of Agriculture.*

25559. Misbranding of salad oil. U. S. v. 376% Cartons and 68 Cartons of Salad Oil, and other cases. Consent decree of condemnation. Product released under bond to be repacked and relabeled. (F. & D. nos. 34171, 34222, 34239. Sample nos. 17071-B, 17073-B, 17089-B, 17090-B, 17103-B.)

These cases involved a product consisting essentially of cottonseed oil or a mixture of cottonseed oil and corn oil which was labeled to create the impression that it was imported olive oil.

On October 25, October 31, and November 2, 1934, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 444% cartons, each containing six 1-gallon cans of salad oil, at Newark, N. J., 56 1-gallon cans of salad oil at Plainfield, N. J., and 17½ gallons of salad oil at North Bergen, N. J., alleging that the article had been shipped in interstate commerce between the dates of May 18 and October 10, 1934, by C. F. Simonin's Sons, Inc. (also known as the Medaglia D'Oro Packing Co.), from Philadelphia, Pa., and charging misbranding in violation of the Food and Drugs Act. A portion of the article was labeled: "Yolanda Brand Olio * * * C. F. Simonin's

Sons, Inc., Refiners, Philadelphia, Pa." The remainder was labeled: "High Grade Salad Oil Medaglia D'Oro Brand * * * Medaglia D'Oro Packing Co., Philadelphia, Pa."

The Yolanda brand was alleged to be misbranded in that the prominent word "Olio", the Italian name "Yolanda", and the vignette of a woman with black hair and Italian facial characteristics, appearing on the can label, and the use of the Italian national colors on the can, were misleading and tended to deceive and mislead the purchaser, since they created the impression that the article was imported olive oil; whereas it was not.

Misbranding of the Medaglia D'Oro brand was alleged for the reason that the statement, "Medaglia D'Oro Brand" and the designs of medals bearing a shield and crown, the Italian national colors, and the picture of a cavalryman in foreign uniform, appearing on the can label, were misleading and tended to deceive and mislead the purchaser, since they created the impression that the article was imported olive oil; whereas it was not. Misbranding was alleged for the further reason that the article purported to be a foreign product when not so. Misbranding was alleged with respect to portions of the product for the further reason that the statements, "High Grade Salad Oil" and "A * * * Blend of Vegetable Oils", "Vegetable Oil", "Blend of Highest Quality Salad Oils", appearing on the labels were misleading, since the terms "vegetable oil" and "salad oil" include olive oil.

On January 6, 1936, C. F. Simonin's Sons, Inc., having appeared as claimant, and the cases having been consolidated, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be repacked and relabeled under the supervision of this Department.

On February 27, 1936, an amendment was made to the decree ordering 26 cases of salad oil, which had been inadvertently included in the goods seized at Newark, N. J., separated from the goods before its delivery to the claimant.

W. R. GREGG, *Acting Secretary of Agriculture.*

25560. Adulteration of canned shrimp. U. S. v. 100 Cases of Canned Shrimp. Consent decree of condemnation. Product released under bond. (F. & D. no. 34548. Sample no. 20051-B.)

This case involved canned shrimp which was in part decomposed.

On December 11, 1934, the United States attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying condemnation and forfeiture of 100 cases of canned shrimp at Yakima, Wash., alleging that the article had been shipped in interstate commerce on or about October 22, 1934, by the J. H. Pelham Co., from Pascagoula, Miss., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Sea-Fresh Brand Shrimp * * * Packed by the J. H. Pelham Co. Pascagoula, Miss."

The article was alleged to be adulterated in that it consisted in part of decomposed animal substance.

On January 24, 1936, the J. H. Pelham Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the unfit portions be segregated and destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25561. Adulteration of tomato catsup. U. S. v. 1,371 Cases of Catsup, and other actions. Default decrees of condemnation and destruction. (F. & D. nos. 35040, 35226, 36618. Sample nos. 27979-B, 29297-B, 43536-B.)

These cases involved shipments of tomato catsup, samples of which were found to contain excessive mold and, in some instances, filth resulting from worm infestation.

On January 30, 1935, the United States attorney for the Eastern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 74 cases of catsup at Belleville, Ill. On March 7, 1935, a libel was filed against 1,371 cases of tomato catsup at Chicago, Ill., and on November 18, 1935, a libel was filed against 18 cases of the product at Newport, R. I.

It was alleged in the libels that the article had been shipped in interstate commerce on or about August 20, September 28, and November 8, 1934, by the Frazier Packing Corporation, from Elmwood, Ind., and that it was adulterated in violation of the Food and Drugs Act. A portion of the article was labeled:

"Frazier's Tomato Catsup Prepared by Frazier Packing Corp., Elwood, Indiana." The remainder was labeled: "Glendale Brand Tomato Catsup * * * Clover Farm Stores Distributors * * * Cleveland, Ohio."

A portion of the article was charged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance, a portion was charged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance, and a portion was charged to be adulterated in that it contained mold making it unfit for consumption.

On December 3, 1935, January 13, and February 20, 1936, the cases having been called for final disposition and no claimant appearing, judgments of condemnation were entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25562. Adulteration of tomato puree. U. S. v. 48½ Cases of Tomato Puree. Default decree of condemnation and destruction. (F. & D. no. 35128. Sample no. 27982-B.)

This case involved tomato puree that contained excessive mold.

On February 12, 1935, the United States attorney for the Eastern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 48½ cases of tomato puree at Mount Vernon, Ill., alleging that the article had been shipped in interstate commerce on or about October 26, 1934, by the Owensboro Preserve & Canning Co., Inc., from Owensboro, Ky., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Green River Brand Tomato Puree * * * Packed by Owensboro Preserve and Canning Co. Inc. Owensboro Kentucky."

The article was alleged to be adulterated in that it contained mold and was unfit for consumption as food.

On January 13, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25563. Adulteration of tomato puree. U. S. v. 393 Cases of Tomato Puree. Default decree of destruction. (F. & D. no. 35372. Sample no. 32986-B.)

This case involved a shipment of tomato puree that contained excessive mold.

On April 12, 1935, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 393 cases of tomato puree at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about March 23, 1935, by the Rockfield Canning Co., of Rockfield, Wis., from Granville, Wis., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Pallas Tomato Puree * * * Ridenour-Baker Grocery Co. Distributors, Kansas City."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On January 28, 1936, no claimant having appeared, judgment was entered finding the product adulterated and ordering that it be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25564. Adulteration and misbranding of egg noodles. U. S. v. 278 Cartons of Egg Noodles. Default decree of condemnation and forfeiture, providing for delivery of the product to a charitable institution. (F. & D. no. 35444. Sample nos. 30183-B to 30187-B, incl.)

This case was based upon shipments of egg noodles that contained soybean flour and turmeric, a yellow coloring matter.

On April 29, 1935, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 278 cartons of egg noodles at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about March 28, 1935, by the Kentucky Macaroni Co., Louisville, Ky., to New York, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Some of the cartons) "Pure Egg Noodles"; (on the remainder "Egg Noodle."

Adulteration of the product was charged (a) under the allegation that an article containing soybean flour and an added color, namely, turmeric, had been substituted for what the product purported to be, namely, pure egg

noodles; (b) under the allegation that the product was colored in a manner whereby inferiority was concealed.

Misbranding of the product was charged under the allegations that the label on some of the cartons bore the statement "Pure Egg Noodles" and that the label on the remainder of the cartons bore the statement "Egg Noodle"; that the said statements were false and misleading and tended to deceive and mislead the purchaser, when applied to a mixture of egg noodles, soybean flour, and added coloring matter, turmeric.

On May 25, 1935, no claimant having appeared, a default decree of condemnation and forfeiture, providing for delivery of the product to a charitable institution, was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25565. Adulteration and misbranding of egg noodles. U. S. v. 252 Cases of Egg Noodles. Consent decree of condemnation and forfeiture, providing for delivery of the product to charitable institutions. (F. & D. no. 35536. Sample no. 37276-B.)

This case was based upon shipments of egg needles that contained soybean flour and turmeric, a yellow coloring matter.

On May 24, 1935, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 252 cases of egg noodles at Buffalo, N. Y., alleging that the article had been shipped in interstate commerce on or about March 21 and March 26, 1935, by the Kentucky Macaroni Co., from Louisville, Ky., into the State of New York, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Package) "Delmonico Brand Pure Egg Noodles, J. Viviano & Sons, Louisville, Ky."

Adulteration of the product was charged (a) under the allegations that an article containing soybean flour and an added color, namely, turmeric, had been substituted for what the product purported to be, namely, pure egg noodles; (b) under the allegation that the article was colored in a manner whereby inferiority was concealed.

Misbranding of the product was charged under the allegations that the label on the cartons bore the statement "Pure Egg Noodles"; that the said statement was false and misleading and tended to deceive and mislead the purchaser when applied to a mixture of egg noodles, soybean flour, and added coloring matter, turmeric.

On June 13, 1935, the Kentucky Macaroni Co., Louisville, Ky., having been recognized as the claimant, and consenting, a decree of condemnation and forfeiture, providing for delivery of the product to charitable institutions, was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25566. Misbranding of canned tomatoes. U. S. v. 300 Cases, et al., of Canned Tomatoes. Consent decree of condemnation and forfeiture, providing for the release of the product to the claimant for relabeling on furnishing of bond in the sum of \$3,000. (F. & D. nos. 35589, 35591 to 35596, incl. Sample nos. 36835-B, 36841-B, 36849-B.)

The can container of this product was below the prescribed standard of fill and was without the required statement indicating that fact.

On June 4, 1935, the United States attorney for the Southern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,050 cases of canned tomatoes at Mobile, Ala., alleging that the article had been shipped in interstate commerce, on or about April 23, 1935, May 1, 1935, and May 7, 1935, by H. A. Shaver Inc., from Lakeland, Fla., to Mobile, Ala., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Can) "Shaver's Brand Hand Packed Tomatoes * * * Packed by H. A. Shaver, Inc., Lakeland, Fla."

Misbranding of the product was charged under the allegations that it was canned food, that the cans contained a substance in addition to canned tomatoes, namely, puree from tomato trimmings, that by the addition of said substance to the canned tomatoes the fill of the cans fell below the fill of container for canned tomatoes promulgated by the Secretary of Agriculture, and that neither the cans nor the label bore a plain or conspicuous statement prescribed by the Secretary of Agriculture indicating that the product fell below such standard of fill of its container.

On July 6, 1935, the Hutchings Brokerage Co., the claimant, consenting, a decree of condemnation and forfeiture was entered, providing for the release of the product to the claimant for relabeling on furnishing of bond in the sum of \$3,000.

W. R. GREGG, *Acting Secretary of Agriculture.*

25567. Misbranding of canned tomatoes. U. S. v. 15 Cases of Canned Tomatoes. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 35599. Sample no. 36849-B.)

The can container of this product was below the prescribed standard of fill and was without the required statement indicating that fact.

On June 3, 1935, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 cases of canned tomatoes at Tuscaloosa, Ala., alleging that the article had been shipped in interstate commerce, on or about April 23, 1935, and May 7, 1935, by H. A. Shaver, Inc., Lakeland, Fla., therefrom to Tuscaloosa, Ala., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Can) "Shaver's Brand Hand Packed Tomatoes Contents 1 Lb. 3 Ozs. Packed by H. A. Shaver, Inc., Lakeland, Fla."

Misbranding of the product was charged under the allegation that the cans were slack-filled in that they contained added tomato products, namely, puree from trimmings; that the product was substandard (1) in that it contained such puree, and (2) in that the cans were slack-filled; and that the labels failed to bear a special statement, namely, "Tomatoes with puree from trimmings."

On July 6, 1935, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25568. Misbranding of canned tomatoes. U. S. v. 20 Cases of Canned Tomatoes. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 35600. Sample no. 36849-B.)

The can container of this product was below the prescribed standard of fill and was without the required statement indicating that fact.

On June 6, 1935, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 20 cases of canned tomatoes at Waynesboro, Miss., alleging that the article had been shipped in interstate commerce, on or about April 23, 1935, and on or about May 7, 1935, by H. A. Shaver, Inc., Lakeland, Fla., therefrom to Waynesboro, Miss., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Can) "Shaver's Brand Hand Packed Tomatoes. Contents 1 Lb. 3 Ozs. Packed by H. A. Shaver, Inc., Lakeland, Fla."

Misbranding of the product was charged under the allegation that the cans were slack-filled in that they contained added tomato products, namely, puree from trimmings; that the product was substandard (1) in that it contained such puree and (2) in that the cans were slack-filled; and that the labels failed to bear a special statement, namely, "Tomatoes with puree from trimmings."

On October 2, 1935, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25569. Misbranding of canned pears. U. S. v. 26½ Cases of Canned Pears. Default decree of condemnation. Product delivered to public institution. (F. & D. no. 35641. Sample no. 38955-B.)

This case involved a shipment of canned pears that were substandard, and were not labeled to indicate that fact.

On June 17, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 26½ cases of canned pears at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 25, 1934, by the Packwell Corporation, from Fruitvale, Calif., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "On the Level Brand Bartlett Pears * * * Packed by The Packwell Corporation, Oakland, Calif."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of

Agriculture, since it was not uniform in size and was not in unbroken halves, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On January 11, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be delivered to a public institution, for consumption as food and not for resale.

W. R. GREGG, *Acting Secretary of Agriculture.*

25570. Adulteration of butter. U. S. v. 168 Boxes of Butter. Decree of condemnation. Product released under bond to be denatured. (F. & D. no. 35659. Sample no. 36268-B.)

This case involved butter that contained mold and filth.

On June 7, 1935, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 168 boxes of butter at Worcester, Mass., consigned on June 1, 1935, alleging that the article had been shipped in interstate commerce by the Beatrice Creamery Co., from Champaign, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "White Rose Farm Rolls Butter * * * Beatrice Creamery Company * * * Chicago, U. S. A."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance.

On February 11, 1936, the Beatrice Creamery Co. having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be denatured and disposed of for purposes other than for human consumption.

W. R. GREGG, *Acting Secretary of Agriculture.*

25571. Adulteration and misbranding of maple sirup. U. S. v. 2 Drums, et al., of Maple Sirup. Decree of forfeiture. Sirup ordered delivered to Government agency or charitable institution; drums delivered to claimant. (F. & D. nos. 35675, 35676. Sample nos. 36394-B, 36395-B, 36396-B.)

This case involved shipments of maple sirup that was adulterated with sugar sirup, and which was also misbranded since it consisted of a mixture of sugar sirup and maple sirup and was sold under the distinctive name "Maple Sirup."

On June 26, 1935, the United States attorney for the District of Vermont, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of four drums of maple sirup at St. Johnsbury, Vt., alleging that the article had been shipped in interstate commerce from the States of New York and Pennsylvania into the State of Vermont on or about April 9 and April 10, 1935, and charging adulteration and misbranding in violation of the Food and Drugs Act. A portion of the article was labeled: "Cary Maple Sugar Co., St. Johnsbury, Vt. * * * John Wiggers, Panama, N. Y." The remainder was labeled: "Adirondack Maple Co., Lowville, N. Y., 191 Leased to Vt. Evaporator Co. Union City, Pa."

The libel charged that the article was adulterated and misbranded, since analysis showed that it was a mixture of sugar sirup and maple sirup.

On January 15, 1936, the Cary Maple Sugar Co., Inc., having entered a claim for the drums, and no other claimant having appeared, judgment of forfeiture was entered and it was ordered that the sirup be delivered to a Government agency, or to a charitable institution, and that the drums be returned to the claimant.

W. R. GREGG, *Acting Secretary of Agriculture.*

25572. Adulteration of butter. U. S. v. 11 Cases of Butter. Default decree of condemnation and destruction. (F. & D. no. 35721. Sample no. 16463-B.)

This case involved butter that contained mold and other extraneous matter.

On May 29, 1935, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 11 cases of butter at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about May 19, 1935, by Kadane-Brown, Inc., from Dallas, Tex., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Sunlight Creamery Butter * * * The Cudahy Packing Co., * * * Chicago, Distributors."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed animal substance.

On June 29, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25573. Adulteration of tomato puree. U. S. v. 159 Cases of Tomato Puree. Default decree of condemnation and destruction. (F. & D. no. 35737. Sample no. 33929-B.)

This case involved canned tomato puree that contained excessive mold.

On July 6, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 159 cases of tomato puree at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about June 12, 1935, by the Minster Cannery, Inc., from Minster, Ohio, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Kenmore Tomato Puree * * * John Sexton and Co. Distributors Chicago, Brooklyn."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On January 13, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25574. Adulteration and misbranding of Vegetrate. U. S. v. 8 Packages and 23 Packages of Vegetrate. Default decree of condemnation and destruction. (F. & D. no. 35751. Sample no. 37635-B.)

This case involved a product containing calcium carbonate and powdered plant material, including a laxative plant drug, which was labeled to convey the impression that it consisted of food-vegetable ingredients. The labeling also contained unwarranted curative and therapeutic claims.

On July 13, 1935, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 31 packages of Vegetrate at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about May 23, 1935, by the Health Foundation of California, from Los Angeles, Calif., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of calcium carbonate and powdered plant material including a laxative plant drug.

The libel alleged that the article was adulterated under the provisions of the law applicable to food in that it contained added deleterious substances, namely, a laxative plant drug and calcium carbonate, which might have rendered it injurious to health. The article was alleged to be further adulterated under the provisions of the law applicable to drugs in that its strength and purity fell below the professed standard and quality under which it was sold, namely, "Vegetrate" since it did not consist of food-vegetable constituents.

The article was alleged to be misbranded under the general provision of the law applicable to both foods and drugs in that the statements on the label, "Vegetrate" and "The Vegetable Concentrate Corrective", were false and misleading and under the provision applicable to drugs in that the following statements regarding its curative and therapeutic effects were false and fraudulent: (Carton) "The Vegetable Concentrate Corrective * * * Hyperacidity, Bloating, Gas Highly recommended as an aid to overcoming these most objectionable ailments * * * Alkalizer And Builder. Vegetrate's organic mineral salts neutralize the acids found in most deficiency diseases. These natural salts help elimination and help to restore normal equilibrium to diseased function"; (circular) " * * * the hyperacidity invariably found in our refined diets. * * * As a result many suffer from the so-called malnutritional diseases—and many diseases come from malnutrition. Ask your doctor what they are. Often, by the time a disease has developed to the point where it shows itself in the form of symptoms, the patient has already suffered from years of malnutrition. To overcome the effects of acid producing foods, to counterbalance the painful results of the malnutritional diseases, it is essential that we consume liberal quantities of organic mineral salts. Consequently it was necessary to devise some means of furnishing the minerals as contained in vegetables and fruits, and at the same time, giving it in such a form that the body could readily take it and assimilate it. Vege-Trate and Vege-Broth are the results of such a

quest. * * * to get rid of the toxic poisons and waste matter that so clog the system and sap the vitality and to assist in neutralization. * * * Neutralization is carried on more quickly and effectively. Acid condition is relieved * * * Vege-Trate and Vege-Broth * * * containing most of the essential organic mineral salts necessary for the alkaline balance of the blood, in an easily and positively assimilable form. * * * We have secured such splendid results in the treatment of those diseases caused by faulty diet * * * Health * * * vigor of health Vege-Broth Retains Scientifically compounded Valuable Minerals Essential For A Beautiful Skin And Body. * * * the essential alkalinizing salts * * * the luscious red lips of your youth * * * give you vital benefits * * * 'Brings Health And Beauty From Within' * * * Anti-Acid Anti-Gas."

On September 28, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25575. Adulteration and misbranding of canned tomatoes. U. S. v. 154 Cases and 175 Cases of Canned Tomatoes. Default decrees of condemnation and destruction. (F. & D. nos. 35802, 36143. Sample nos. 35451-B, 35452-B, 35453-B.)

These cases involved canned tomatoes which contained contaminants resulting from corrosion of the cans. The product was also falsely branded as to the name of the packer and the place of manufacture.

On July 25 and August 15, 1935, the United States attorneys for the Southern District of Ohio, and the Eastern District of Kentucky, filed in their respective district courts libels praying seizure and condemnation of 154 cases of canned tomatoes at Cincinnati, Ohio, and 175 cases of canned tomatoes at Covington, Ky., consigned by the Reliable Trading Co., of Cincinnati, Ohio, in part on or about May 28 and June 12, 1935, from Walton, Ky., to Cincinnati, Ohio, and in part on or about June 6, 1935, from Cincinnati, Ohio, to Covington, Ky., alleging that the article had been shipped in interstate commerce and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Smithson Brand Salted Tomatoes * * * Packed by H. M. Parrott & Co., Preston, Md."

The libel filed in the Southern District of Ohio charged that the article was adulterated in that it consisted in whole or in part of a filthy vegetable and animal substance. The libel filed in the Eastern District of Kentucky charged that the article was adulterated in that contaminants resulting from corrosion of the cans had been mixed and packed with the article.

Misbranding of the product libeled in the Eastern District of Kentucky was alleged for the reason that the statements on the label, "Packed by H. M. Parrott & Co., Preston, Md.", was false and misleading and tended to deceive and mislead the purchaser, since that firm was not the packer; and for the further reason that it was falsely branded as to the State in which it was packed.

On August 29 and October 21, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25576. Adulteration of tomato paste. U. S. v. 378 Cases of Tomato Paste. Default decree of condemnation and destruction. (F. & D. no. 35835. Sample no. 38782-B.)

This case involved an interstate shipment of tomato paste that was found to contain worm debris.

On August 1, 1935, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 378 cases of tomato paste at New Orleans, La., alleging that the article had been shipped in interstate commerce, on or about February 27, 1935, by the Hershel California Fruit Products Co., from San Jose, Calif., and that it was adulterated in violation of the Food and Drugs Act. The article was labeled: "Tomato Paste Contadina Brand Salsa Di Pomodoro. Naples Style. Prepared from fresh ripe tomatoes, harmless color and sweet basil. Net Weight 6 Ozs. Packed by Hershel Cal. Fruit Prod. Co. San Jose, Cal."

It was alleged that the article was adulterated in that it consisted in whole or in part of a filthy vegetable substance, because it contained worm debris.

On March 7, 1936, no claimant having appeared, judgment of condemnation was entered, and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25577. Adulteration of canned salmon. U. S. v. 506 Cases, et al., of Canned Salmon. Consent decree of condemnation. Product released under bond for reconditioning. (F. & D. nos. 35838, 36098. Sample nos. 37977-B, 37987-B, 37994-B, 40407-B.)

These cases involved interstate shipments of canned salmon which was found to be in part decomposed.

On August 2, 1935, the United States attorney for the Western District of Washington, acting upon reports by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 506 cases of canned salmon, and on August 5, 1935, a libel praying seizure and condemnation of 164 cases of canned salmon at Seattle, Wash., alleging that the article had been shipped in interstate commerce, on or about July 10, 1935, by Al Jones, from Seward, Alaska, and that the article was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On February 28, 1936, Al Jones, doing business as Kustatan Packing Co., having appeared as claimant and having admitted the allegations of the libel and consented to a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that the product be reconditioned to comply with the law.

W. R. GREGG, *Acting Secretary of Agriculture.*

25578. Misbranding of "Army" Brand Prime Cotton Seed Cake and Meal. U. S. v. Midlothian Oil & Gin Co., a corporation. Plea of guilty. Fine, \$200. (F. & D. no. 35877. Sample nos. 8170-B, 8171-B.)

The label of this article bore an erroneous statement as to the quantity of an ingredient.

On August 21, 1935, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Midlothian Oil & Gin Co., a corporation, Midlothian, Tex., alleging shipment by it in violation of the Food and Drugs Act, as amended, on or about September 3, 1934, from Midlothian, Tex., to Thayer, Kans., of a number of sacks of "Army" Brand Prime Cotton Seed Cake and Meal that was misbranded. The article was labeled in part: (Tag on sack) "Army Brand Prime Cotton Seed Cake and Meal * * * Guaranteed Analysis Protein, not less than 43% * * * Louis Tobian & Co., Dallas, Texas."

The article was alleged to be misbranded (a) in that the statement borne on the tag attached to the sacks, to wit, "Guaranteed Analysis Protein, not less than 43%", was false and misleading in that said article did contain not more than 40.75 percent of protein; and (b) in that the article was labeled as aforesaid so as to deceive and mislead the purchaser.

On February 28, 1936, a plea of guilty having been entered, a fine of \$200 was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25579. Misbranding of K. C. Brand Cake Meal, Choctaw Prime Cottonseed Cake and Meal, Cow-Eta Brand Cottonseed Meal, and Superior Quality Cottonseed Cake and Meal. U. S. v. Interstate Mill & Storage Co., a corporation. Plea of guilty. Fine, \$225 and costs. (F. & D. no. 35880. Sample nos. 8152-B, 8156-B, 8157-B, 8161-B, 8162-B, 8163-B, 8164-B, 8169-B, 27404-B, 27406-B, 33015-B.)

These cases were based on (1) interstate shipments of a product described as K. C. Brand Cake Meal which contained less protein than the percentage thereof represented on the label, and the sacks of which contained less than the quantity represented thereon; (2) interstate shipments of a product described as Choctaw Cottonseed Cake and Meal, the sacks of which contained less than the quantity represented thereon; (3) an interstate shipment of a product described as Cow-Eta Brand Cottonseed Meal, the sacks of which contained less than the quantity represented thereon; and (4) an interstate shipment of a product described as Superior Quality Cottonseed Cake and Meal which contained less protein than the percentage thereof represented on the label.

On November 20, 1935, the United States attorney for the Eastern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Interstate Mill & Storage Co., a corporation, Cairo, Ill., charging shipment by said corporation, in violation of the Food and Drugs Act, from the State of Illinois into the State of Kansas, on or about August 4, 28, and 30, 1934, of quantities of a product described as K. C. Brand Cake Meal, on or about August 16 and September 4, 1934, of

quantities of a product described as Choctaw Prime Cottonseed Cake and Meal, on or about September 4, 1934, of a quantity of a product described as Cow-Eta Brand Cottonseed Meal, and on or about April 22, 1935, of a quantity of a product described as Superior Quality Cottonseed Cake and Meal, which were misbranded.

The article described as K. C. Brand Cake Meal was labeled in part: "K. C. Brand Cake Meal 100 Pounds Net Guaranteed Analysis Protein, not less than 41% * * * Products of cottonseed only Manufactured for Kansas City Cake & Meal Co. 360 Live Stock Exchange Bldg., Kansas City, Mo." It was alleged in the information that said article in the shipments of August 4 and 28, 1934, was misbranded in that the statement "100 Pounds Net", borne on the sacks containing the article, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since said statement represented that each of the sacks contained 100 pounds net of the article; whereas in fact they each contained a less amount. It was alleged that said article in said two shipments was further misbranded in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package. It was alleged that said article in the shipment of August 28, 1934, was misbranded in that the statement, "Guaranteed Analysis Protein, not less than 41%", borne on the sacks containing the article, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since said statement represented that the article contained 41 percent of protein; whereas in fact the article contained a less amount of protein. It was alleged that said article in the shipment of August 30, 1934, was misbranded in that the statement, "Guaranteed Analysis Protein, not less than 41%", borne on the sacks containing the article, was false and misleading, since it represented that the article contained 41 percent of protein; whereas in fact the article contained a less amount of protein.

The article described as Choctaw Prime Cottonseed Cake and Meal was labeled in part: "100 Pounds Net Guaranteed Analysis * * * Products of cottonseed only Choctaw Sales Company 833-835 Live Stock Exchange Bldg. Kansas City, Missouri Cottonseed Cake and Meal." It was alleged in the information that said article was misbranded in that the statement, "100 Pounds Net", borne on the sacks containing the article, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since said statement represented that each of the sacks contained 100 pounds net of the article; whereas in fact they each contained a less amount. It was alleged that said article was further misbranded in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

The article described as Cow-Eta Brand Cottonseed Meal was labeled in part: "They Moo for More Cow-Eta Cottonseed Meal Trade Mark Registered 100 Pounds Net Cow-Eta Brand 41% Prime Quality Cotton Seed Meal Made only from Cotton Seed. Guaranteed Analysis * * * Ashcraft-Wilkinson Co. Atlanta, Georgia." It was alleged in the information that said article was misbranded in that the statement, "100 Pounds Net", borne on the sacks containing the article, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since said statement represented that each of the sacks contained 100 pounds of the article; whereas in truth the sacks contained a less amount. It was alleged that said article was misbranded further in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

The article described as Superior Quality Cottonseed Cake and Meal was labeled in part: "100 Lbs. Net Weight Cottonseed Cake and Meal 'Superior Quality' All That the Name Implies Guaranteed Analysis Protein, not less than 41% * * * Products of cottonseed only Distributed by Superior Cake & Meal Co. 502 Live Stock Exchange Bldg., Kansas City, Mo." It was alleged in the information that said article was misbranded in that the statement, "Protein, not less than 41%", was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since said statement represented that the article contained 41 percent of protein; whereas in fact the article contained a less amount of protein.

On March 10, 1936, a plea of guilty was entered on behalf of the defendant corporation, and the court imposed a fine of \$225 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25580. Misbranding of cottonseed screenings. U. S. v. Cairo Meal & Cake Co.
Plea of guilty. Fine, \$350 and costs. (F. & D. no. 35886. Sample nos.
8172-B, 8173-B, 27417-B, 27418-B, 33005-B, 33010-B, 33013-B.)

These cases were based on interstate shipments of cottonseed screenings which contained less protein than the percentages thereof represented on the label, and the sacks of which, in one shipment, contained less than the quantity represented thereon.

On October 2, 1935, the United States attorney for the Eastern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Cairo Meal & Cake Co., a corporation, Cairo, Ill., charging shipment by said corporation, in violation of the Food and Drugs Act, on or about October 11, November 5 and 24, 1934, and March 6, 21, and 23, 1935, from the State of Illinois into the State of Kansas, of quantities of cottonseed screenings that were misbranded.

The article in the shipments of October 11, November 5 and 24, 1934, and March 6 and 21, 1935, was labeled: "Miss Cairo Brand 100 Pounds Net 43 Per Cent Protein Cottonseed Meal Prime Quality Manufactured by Cairo Meal & Cake Company Cairo, Illinois Guaranteed Analysis Crude Protein, not less than 43 Per Cent * * *." It was alleged in the information that said article was misbranded in that the statements, "43 Per Cent Protein" and "Guaranteed Analysis Crude Protein, not less than 43 Per Cent", borne on the tags attached to the sacks containing the article, was false and misleading, and in that by reason of said statements the article was labeled so as to deceive and mislead the purchaser, since the statements represented that the article had a protein content amounting to not less than 43 percent; whereas in fact the protein content of the article amounted to less than 43 percent.

The article in the shipment of March 26, 1935, was labeled in part: "100 Pounds Net Guaranteed Analysis Protein, not less than 41% * * * Products of cottonseed only Manufactured for Kansas City Cake & Meal Co." It was alleged that said article was misbranded in that the statements "Guaranteed Analysis Protein, not less than 41%" and "100 Pounds Net", borne on tags attached to the sacks containing the article, were false and misleading, and in that by reason of said statements the article was labeled so as to deceive and mislead the purchaser, since the statements represented that the article had a protein content amounting to not less than 41 percent, and that the sacks each contained 100 pounds net of the article; whereas in fact the protein content of the article was less than 41 percent, and the sacks each contained less than 100 pounds of the article.

On January 24, 1936, a plea of guilty was entered on behalf of the defendant corporation, and the court imposed a fine of \$350 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25581. Adulteration and misbranding of Consolidated Beef & Bone Scrap and Consolidated Fish Meal. U. S. v. Consolidated By-Product Co. Plea of nolo contendere. Fine, \$25. (F. & D. no. 35901. Sample nos. 8327-B, 8328-B, 8332-B, 8333-B, 8335-B, 8336-B.)

These cases were based on interstate shipments of quantities of a product labeled "Consolidated Beef & Bone Scrap", that contained excessive salt and less protein than the percentage thereof represented on the label; and on an interstate shipment of a quantity of a product labeled "Consolidated Fish Meal", which contained cut hulled barley and less protein than the percentage thereof represented on the label.

On September 4, 1935, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Consolidated By-Product Co., a corporation, Philadelphia, Pa., charging shipment by said corporation, in violation of the Food and Drugs Act, on or about August 15 and 31, and September 1 and 22, 1934, from the State of Pennsylvania into the State of Maryland of quantities of a product, described as Consolidated Beef & Bone Scrap, which was adulterated and misbranded; and on October 5, 1934, from the State of Pennsylvania into the State of Maryland, of a quantity of a product, described as Consolidated Fish Meal, which was adulterated and misbranded. One of the five lots of the product described as Consolidated Beef & Bone Scrap was labeled: "100 Lbs. Consolidated Beef & Bone Scrap Trade Mark Consolidated [representation of two animals charging] Beef Scrap Guaranteed Analysis Protein 45% Fat 7% Fibre 3% Manufactured by Consolidated By-Product Com-

pany 36th & Grays Ferry Ave. Philadelphia", and each of the other four lots of this product was labeled as set forth except that instead of the statement "Protein 45%", the label on two lots bore the statement "Protein 50%", and the label on the two remaining lots bore the statement "Protein 55%." The product described as Consolidated Fish Meal was labeled: "100 Lbs. Consolidated Fish Meal Trade Mark [representation of Neptune] Iodine from the Sea Guaranteed Analysis Protein 55% Min. Fat 8% Min. Fibre 2% Max. Manufactured by Consolidated By-Product Company Stock Yards—Philadelphia."

It was alleged in the information that the article, labeled "Consolidated Beef & Bone Scrap" was, in four of the five lots thereof, adulterated in that a substance, excessive salt, had been substituted in part for beef and bone scrap, which the article purported to be.

It was alleged that the article, labeled "Consolidated Beef & Bone Scrap", was misbranded in that the statements, "Beef & Bone Scrap" and "Guaranteed Analysis Protein 45%", borne on the label in one lot, "Guaranteed Analysis 50%", borne on the label in two lots, and "Guaranteed Analysis 55%", borne on the label in two lots, were false and misleading, and in that by reason of said statements the article was labeled so as to deceive and mislead the purchaser, since said statements represented that the article consisted wholly of beef and bone scrap, that the article in one lot contained not less than 45 percent of protein, that the article in two lots contained not less than 50 percent of protein, and that the article in two lots contained not less than 55 percent of protein; whereas the article in four of the five lots did not consist wholly of beef and bone scrap, but consisted in part of excessive salt, and the article in the lot represented as containing not less than 45 percent protein in fact contained less than 45 percent thereof, the article in the two lots represented as containing not less than 50 percent of protein in fact contained less than 50 percent thereof, and the article in the two lots represented as containing not less than 55 percent of protein in fact contained less than 55 percent thereof.

It was alleged that the article described as Consolidated Fish Meal was adulterated in that cut hulled barley had been mixed and packed with the article so as to lower, reduce, and injuriously affect its quality and strength, and in that a substance, hulled barley, had been substituted in part for fish meal, which the article purported to be.

It was alleged that the article described as Consolidated Fish Meal was misbranded in that the statements, "Fish Meal" and "Guaranteed Analysis 55% Min.", borne on the label, were false and misleading, and in that by reason of said statements the article was labeled so as to deceive and mislead the purchaser, since said statements represented that the article consisted wholly of fish meal, and that the article contained not less than 55 percent of protein; whereas in fact the article did not consist wholly of fish meal, but consisted in part of cut hulled barley, and the article contained less than 55 percent of protein.

On January 21, 1936, a plea of nolo contendere was entered on behalf of the defendant corporation, and the court imposed a fine of \$25.

W. R. GREGG, *Acting Secretary of Agriculture.*

25582. Misbranding of table sirup. U. S. v. Giroux Co. Plea of guilty. Fine, \$100. (F. & D. no. 35903. Sample nos. 1736-B, 5081-B, 11976-B.)

This case was based on interstate shipments of quantities of sirup which contained less than the represented quantity of maple sirup, and the containers of which were short in measure.

On February 7, 1936, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Giroux Co., a corporation, New York, N. Y., charging shipment by said corporation, in violation of the Food and Drugs Act, on or about June 25, 1934, from the State of New York into the State of Maryland, and on or about June 30, 1934, from the State of New York into the State of California, of quantities of sirup that was misbranded. The article was labeled: "Giroux Brand Pancake and Waffle Syrup Made from 75% Cane Sugar Syrup and 25% Maple Syrup Giroux Company, Inc., 401 West 13th Street New York Contents One Gallon."

It was alleged in the information that the article in both shipments was misbranded in that the statement, "Pancake and Waffle Syrup Made from 75%

Cane Syrup and 25% Maple Syrup", borne on the label, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since said statement represented that the article contained not less than 25 percent of maple sirup; whereas in fact the article contained less than 25 percent of maple sirup.

It was alleged that the article in the shipment to California was further misbranded in that the statement, "Contents One Gallon", borne on the label of the cans containing the article, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since said statement represented that each of the cans contained not less than 1 gallon of the article; whereas in fact each of the cans contained less than 1 gallon of the article. Misbranding of the article in the shipment to California was alleged further in that the article was in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On March 27, 1936, a plea of guilty was entered on behalf of the defendant corporation, and the court imposed a fine of \$100.

W. R. GREGG, *Acting Secretary of Agriculture.*

25583. Misbranding of peanut butter. U. S. v. Williamson Candy Co. Plea of guilty. Fine, \$50. (F. & D. no. 35904. Sample nos. 38879-A, 70098-A.)

This case was based on interstate shipments of peanut butter, the packages of which were short in weight.

On August 19, 1935, the United States attorney for the Eastern District of New York filed in the district court an information against the Williamson Candy Co., a corporation, Brooklyn, N. Y., charging shipment by said corporation in violation of the Food and Drugs Act, on or about March 21 and March 23, 1934, from the State of New York into the State of New Jersey, and on May 19, 1934, from the State of New York into the State of California, of quantities of peanut butter that was misbranded. The article in the shipments into the State of New Jersey was labeled: "'Makes and Keeps Friends' American House Peanut Butter Net Weight 2 Lbs. American Grocery Company Distributors, Hoboken, N. J." The article in the shipment into the State of California was labeled: "Princess Pat Peanut Butter Contents 9 oz. Williamson Candy Co. Chicago Brooklyn."

The article in the shipments into New Jersey was alleged to be misbranded in that the statement "Net Weight 2 Lbs.", borne on the label on the jars containing the article, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since it represented that each of the jars contained 2 pounds of the article; whereas in fact each of the jars contained less than 2 pounds of the article. The article in the shipments into New Jersey was alleged to be misbranded further in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity of the contents in the package was less than 2 pounds, the quantity stated.

The article in the shipment into the State of California was alleged to be misbranded in that the statement, "Contents 9 oz.", borne on the jars containing the article, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since it represented that each of the jars contained 9 ounces of the article; whereas in fact each of the jars contained less than 9 ounces of the article. The article in the shipment into California was alleged to be misbranded further in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity of the contents in the package was less than 9 ounces, the quantity stated.

On April 9, 1936, the defendant entered a plea of guilty and the court imposed a fine of \$50.

W. R. GREGG, *Acting Secretary of Agriculture.*

25584. Adulteration and misbranding of confectionery. U. S. v. Herman P. Richs (North Atlantic Trading Co.). Plea of guilty. Fine, \$10. (F. & D. no. 35905. Sample nos. 20656-B, 20657-B.)

This case was based on an interstate shipment of confectionery which contained spirituous liquor, and the packages of which failed to bear a statement of the quantity of the contents thereof.

On July 29, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Herman P. Riehs, trading as the North Atlantic Trading Co., Chicago, Ill., charging shipment by said defendant in violation of the Food and Drugs Act, on or about October 22, 1934, from the State of Illinois into the State of New York, of a quantity of each of two articles of confectionery which were adulterated and misbranded. One article was labeled: "Vergissmeinnicht A. G. Schmidt & Co. Berlin Feinste Weinbrand Bohnen." The other article was labeled: "Mevange Freres Confiseur Paris."

It was alleged in the information that both articles were adulterated in that they contained spirituous liquor.

It was alleged that the articles were misbranded in that they were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On February 5, 1936, a plea of guilty was entered by the defendant, and the court imposed a fine of \$10.

W. R. GREGG, *Acting Secretary of Agriculture.*

25585. Misbranding of Mureco Meat and Bone. U. S. v. Mutual Rendering Co. Plea of nolo contendere. Fine, \$12.50. (F. & D. no. 35908. Sample nos. 8340-B, 9552-B.)

This case was based on interstate shipments of an article described as Mureco Meat and Bone which contained less protein than the percentage thereof represented on the label.

On August 21, 1935, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Mutual Rendering Co., a corporation, Philadelphia, Pa., charging shipment by said corporation, in violation of the Food and Drugs Act, on or about November 7, 1934, from the State of Pennsylvania into the State of Maryland, and on or about November 16, 1934, from the State of Pennsylvania into the State of Virginia, of quantities of an article described as Mureco Meat and Bone that was misbranded. The article was labeled: "100 lbs. Net Mureco Meat and Bone Guaranteed Analysis Protein 50% Min. Fat 6% Min. Fibre 2% Max. Total Phos. Acid 15% Max. Manufactured by Mutual Rendering Co., Inc. Phila., Pa."

It was alleged in the information that the article was misbranded in that the statement, "Guaranteed Analysis Protein 50% Min.," was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since the statement represented that the article had a minimum protein content of not less than 50 percent, whereas in fact the article contained less than 50 percent of protein.

On January 21, 1936, a plea of nolo contendere was entered by the defendant, and the court imposed a fine of \$12.50.

W. R. GREGG, *Acting Secretary of Agriculture.*

25586. Adulteration of tomato puree. U. S. v. William E. Everitt and Frank H. Everitt (Everitt Packing Co.). Pleas of guilty. Fine, \$25. (F. & D. no. 35909. Sample nos. 27998-B, 28000-B.)

This case was based on an interstate shipment of tomato puree that contained excessive mold.

On September 17, 1935, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against William E. Everitt and Frank H. Everitt, a partnership trading as the Everitt Packing Co., Underwood, Ind., alleging shipment by said defendants in violation of the Food and Drugs Act, on or about September 17, 1934, from the State of Indiana into the State of Missouri, and on or about September 25, 1934, from the State of Indiana into the State of Illinois of quantities of tomato puree that was adulterated. A portion of the article was labeled: "De-Luxe Brand Tomato Puree * * * Lowell-Krekeler Grocer Co. Distributors St. Louis, Mo." The remainder of the article was unlabeled.

The article was alleged to be adulterated in that it consisted in part of a decomposed vegetable substance.

On October 11, 1935, the defendants came into court, pleaded guilty, and a fine of \$25 was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25587. Adulteration and misbranding of Ownen's Viti-Veg. U. S. v. Edward Ownen, Frank Dawdy, and Glen Allmon, copartners, trading as Bakers Research Co. Pleas of nolo contendere. Fines aggregating \$600 imposed, and costs awarded against defendants. (F. & D. no. 35915. Sample nos. 27431-B, 27432-B, 28259-B, 33930-B, 35547-B, 37139-B.)

This article was adulterated in that it contained an added deleterious ingredient, to wit, phenolphthalein, and its labels bore erroneous statements as to its uses.

On September 27, 1935, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Edward Ownen, Frank Dawdy, and Glen Allmon, copartners, trading under the name of Bakers Research Co., St. Louis, Mo., alleging shipments by them in violation of the Food and Drugs Act as amended, in the period from April 20 to May 20, 1935, from St. Louis, Mo., to several places in other States, of quantities of Ownen's Viti-Veg which was both adulterated and misbranded. The article was labeled in part: (Carton) "Ownen's Viti-Veg Original Laxative Health Bread * * * Packed By Bakers Research Company Mid-City Bldg. St. Louis, Mo."

Analysis showed that the article contained not less than 10.34 percent of phenolphthalein.

The article was alleged to be adulterated in that it contained an added deleterious ingredient, to wit, phenolphthalein, which might have rendered the article injurious to health.

The article was alleged to be misbranded in that the statement borne on the carton, to wit, "Viti-Veg Original Laxative Health Bread * * * One Pound Bakes 200 Loaves", was false and misleading in that said article was not composed wholly of a vegetable product, but was composed in part of phenolphthalein, and could not be used in baking health bread, in that it contained an added deleterious ingredient, to wit, phenolphthalein, in an amount which might have rendered the article injurious to health; (b) in that the article was labeled as aforesaid so as to deceive and mislead the purchaser.

On January 22, 1936, pleas of nolo contendere having been entered, fines aggregating \$600 were imposed and costs were awarded against the defendants.

W. R. GREGG, *Acting Secretary of Agriculture.*

25588. Adulteration of butter. U. S. v. Ben Ablon and Morris Ablon (Ablon Produce Co.). Plea of guilty. Fine, \$200. (F. & D. no. 35917. Sample no. 25595-B.)

This case was based on an interstate shipment of butter that was found to contain paper, human and animal hairs, feathers, and miscellaneous dirt.

On August 22, 1935, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Ben Ablon and Morris Ablon, trading as the Ablon Produce Co., Dallas, Tex., charging shipment by said defendants, in violation of the Food and Drugs Act, on or about February 11, 1935, from the State of Texas into the State of Illinois, of a quantity of butter which was adulterated.

It was alleged in the information that the article was adulterated in that it consisted in part of filthy animal substances.

On January 17, 1936, the defendant, Morris Ablon, was dismissed, and a plea of guilty was entered by the defendant, Ben Ablon, and the court imposed a fine of \$200.

W. R. GREGG, *Acting Secretary of Agriculture.*

25589. Adulteration of apples. U. S. v. K. Lane Johnson Co., Inc. Plea of guilty. Fine, \$10. (F. & D. no. 35933. Sample nos. 360-B, 363-B.)

This case was based on an interstate shipment of apples, examination of which showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On September 13, 1935, the United States attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the K. Lane Johnson Co., a corporation, Yakima, Wash., charging shipment by said corporation in violation of the Food and Drugs Act, on or about February 6, 1935, from the State of Washington into the State of California, of a quantity of apples that were adulterated. The article was labeled in part: "Rome Beauty 20B-096 [or "20B-097" or "20B-101"]."

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On May 7, 1933, a plea of guilty was entered on behalf of the defendant corporation, and the court imposed a fine of \$10.

W. R. GREGG, *Acting Secretary of Agriculture.*

25590. Misbranding of Southland's Cottonseed Cake and Meal. U. S. v. Southland Cotton Oil Co. Plea of guilty. Fine, \$20 and costs. (F. & D. no. 35958. Sample nos. 27422-B, 27424-B.)

This case was based on interstate shipments of quantities of an article described as Southland's Cottonseed Cake and Meal, which contained less protein and more crude fiber than the respective percentages thereof represented on the label.

On September 16, 1935, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Southland Cotton Oil Co., a corporation, Oklahoma City, Okla., charging shipment by said corporation, in violation of the Food and Drugs Act, on or about January 26, and February 4, 1935, from the State of Oklahoma into the State of Kansas, of quantities of an article described as Southland's Cottonseed Cake and Meal which was misbranded. The article was labeled: "100 Lbs. Net Southland's Cottonseed Cake and Meal Prime Quality Guaranteed Analysis Crude Protein, not less than 43% Crude Fat, not less than 5% Crude Fiber, not more than 12% * * * Made from Decorticated Cotton Seed By Southland Cotton Oil Company Head Office Paris Texas."

It was alleged in the information that the article was misbranded in that the statements, "Guaranteed Analysis Crude Protein, not less than 43%", and "Crude Fiber, not more than 12%", borne on the label, were false and misleading, and in that by reason of said statements the article was labeled so as to deceive and mislead the purchaser, since the statements represented that the article had a protein content amounting to not less than 43 percent and a crude fiber content amounting to not more than 12 percent; whereas in fact the article had a protein content amounting to less than 43 percent and a crude fiber content amounting to more than 12 percent.

On January 15, 1936, a plea of guilty was entered on behalf of the defendant corporation, and the court imposed a fine of \$20 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25591. Adulteration of tangerines. U. S. v. The Eustis Packing Co. Plea of nolo contendere. Fine, \$90. (F. & D. no. 35960. Sample no. 29334-B.)

This case was heard upon an interstate shipment of tangerines, examination of which showed the presence of decayed and dried-out fruit.

On March 13, 1936, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Eustis Packing Co., a corporation, Eustis, Fla., charging shipment by said corporation in violation of the Food and Drugs Act, on or about April 17, 1935, from the State of Florida into the State of Wisconsin, of a quantity of tangerines that were adulterated. The article was labeled: "American Beauty Brand [design of a red rose]."

The article was alleged to be adulterated in that it consisted in part of a decomposed vegetable substance, namely, excessive decayed, dried-out pulp of the tangerine, and in that a nonedible substance, namely, excessive decayed, dried-out pulp of the tangerine orange, had been substituted in part for the article, and in that a valuable constituent of the article, namely, tangerine juice, had been in part abstracted by the excessive drying of the pulp.

On April 15, 1936, a plea of nolo contendere was entered on behalf of the defendant corporation and the court imposed a fine of \$90.

W. R. GREGG, *Acting Secretary of Agriculture.*

25592. Adulteration of baking powder. U. S. v. Commercial Importing Co., Inc. Plea of guilty. Fine, \$50 and costs. Fine suspended. (F. & D. no. 35962. Sample no. 38113-B.)

This case was based on a shipment of baking powder that contained a smaller percentage of available carbon dioxide than the minimum required for baking powder.

On September 13, 1935, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Commercial Importing Co., Inc., Seattle,

Wash., alleging shipment by said company in violation of the Food and Drugs Act, on or about May 23, 1935, from Seattle, Wash., to Port Wakefield, Alaska, of a quantity of baking powder that was adulterated. The article was labeled in part: "Shaw's Bakers' Extra Strength Baking Powder * * * Commercial Importing Co., Inc., Seattle, Tacoma, Portland."

The article was alleged to be adulterated in that mixed substances composing a product yielding less than 12 percent of available carbon dioxide, the permitted minimum percentage of available carbon dioxide required for baking powder, had been substituted for baking powder, which the article purported to be.

On October 7, 1935, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of \$50 and costs. Payment of the fine was suspended for 5 years on condition that costs be paid immediately.

W. R. GREGG, *Acting Secretary of Agriculture.*

25593. Adulteration and misbranding of olive oil. U. S. v. Sam Greenblatt and Al Spector (G. & S. Specialty Co.). Judgment of guilty. Fine, \$150 and costs. (F. & D. no. 35988. Sample no. 28598-B.)

This case was based on an interstate shipment of so-called olive oil which consisted almost wholly of cottonseed oil, and the bottles of which contained less than the quantity represented on the label.

On September 26, 1935, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Sam Greenblatt and Al Spector, trading as G. & S. Specialty Co., Youngstown, Ohio, charging shipment by said defendants, in violation of the Food and Drugs Act, on or about March 20, 1935, from the State of Ohio into the State of Pennsylvania, of a quantity of so-called olive oil, which was adulterated and misbranded. The article was labeled: "G and S Pure Imported Olive Oil. Net 2 Fl. Ozs. G and S Specialty Co., Youngstown, Ohio."

The article was alleged to be adulterated (1) in that a substance, cottonseed oil, had been mixed and packed with the article so as to reduce, lower, and injuriously affect the quality and strength of pure imported olive oil, and (2) in that a substance, cottonseed oil, had been substituted practically wholly for pure imported olive oil which the article purported to be.

The article was alleged to be misbranded in that the statements, "Pure Imported Olive Oil" and "Net 2 Fl. Ozs.", borne on the label, were false and misleading, and in that by reason of said statements the article was labeled so as to deceive and mislead the purchaser, since said statements represented that the article was pure imported olive oil and that the bottles each contained 2 fluid ounces net of the article; whereas in fact the article consisted practically wholly of a domestic product, cottonseed oil, and the bottles each contained less than 2 fluid ounces net of the article. The article was alleged to be further misbranded in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity of the contents of the package was less than 2 fluid ounces, and such amount was not stated on the package.

On March 21, 1936, after trial without a jury, the court found the defendants guilty and imposed a fine of \$150 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25594. Adulteration of apples. U. S. v. Charles C. Child, Scott Brubaker, and Frank H. Hogue. Pleas of guilty. Each defendant fined \$25. (F. & D. no. 36007. Sample nos. 23622-B, 23623-B, 23624-B.)

This product contained added arsenic and lead.

On November 13, 1935, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Charles C. Child, Scott Brubaker, and Frank H. Hogue, all of Payette, Idaho, alleging shipment by them in violation of the Food and Drugs Act as amended, on or about January 10, 1935, from Nyssa, Oreg., to Marionville, Mo., of baskets of apples that were adulterated. The article was labeled in part: (Basket) "F. H. Hogue, Payette, Idaho."

Adulteration of the product was charged under the allegation that it contained added and deleterious ingredients, namely, arsenic and lead, in an amount that might have rendered it injurious to health.

On January 6, 1936, pleas of guilty having been entered, each defendant was fined \$25.

W. R. GREGG, *Acting Secretary of Agriculture.*

25595. Adulteration of hot sauce. U. S. v. Stockton Packing Co., a corporation. Plea of guilty. Fine, \$50. (F. & D. no. 36017. Sample nos. 1584-B, 4791-B, 12973-B.)

This article consisted in part of a decomposed vegetable substance.

On November 4, 1935, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Stockton Packing Co., a corporation, Stockton, Calif., alleging shipment in violation of the Food and Drugs Act as amended, on or about January 15, 1935, from Stockton, Calif., to Baltimore, Md., by Griffith-Durney Co., a corporation, San Francisco, Calif., and on or about March 19, 1935, from San Francisco, Calif., to Hilo, Territory of Hawaii, by Fred L. Waldron, Ltd., a corporation, San Francisco, Calif., of quantities of Troubadour Hot Sauce which was adulterated. The article was labeled in part: (Can) "Troubadour Hot Sauce Contents 7½ Oz. * * * Griffith Durney Co. Distributors San Francisco Calif., U. S. A."

Adulteration of the article was charged under the allegation that it consisted in part of a decomposed vegetable substance. It was further charged that the cans of the article in the two shipments aforesaid had been purchased by the said Griffith-Durney Co. and by the said Fred L. Waldron, Ltd., from the Stockton Packing Co., the defendant, before the making of the shipments, under guaranties by the latter that the article was not adulterated or misbranded within the meaning of the said act.

On January 15, 1936, a plea of guilty having been entered, a fine of \$50 was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25596. Misbranding of apple butter. U. S. v. Squire Dingee Co., a corporation. Plea of guilty. Fine, \$25 and costs. (F. & D. no. 36023. Sample no. 35407-B.)

The label on the container of this product bore an erroneous statement regarding the weight of the contents of the container.

On October 17, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Squire Dingee Co., a corporation, Chicago, Ill., alleging shipment in violation of the Food and Drugs Act as amended, on or about February 16, 1935, from Chicago, Ill., to Cincinnati, Ohio, of quantities of apple butter that was misbranded. The article was labeled in part: (Jar) "Ma Brown Pure Apple Butter 1 lb. 13 oz. Squire Dingee Co. Chicago."

Misbranding of the product was charged (a) under the allegations that each of the jars bore a statement, to wit, "1 lb. 13 oz.," that each of the jars contained less than 1 pound 13 ounces, and that the said statement was false and misleading; (b) under the allegation that the said statement was borne on each of said jars so as to deceive and mislead the purchaser; (c) under the allegation that the article was food in package form and that the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On January 15, 1936, a plea of guilty having been entered, a fine of \$25 and costs was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25597. Adulteration of tomato puree. U. S. v. Minster Canneries, Inc., a corporation. Plea of nolo contendere. Fine, \$25 and costs. (F. & D. no. 36027. Sample no. 33929-B.)

This article contained a decomposed vegetable substance.

On October 24, 1935, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Minster Canneries, Inc., a corporation, Minster, Ohio, alleging shipment in violation of the Food and Drugs Act as amended, on or about June 12, 1935, from Minster, Ohio, to Chicago, Ill., of quantities of tomato puree that was adulterated. The article was labeled in part: (Can) "Kenmore * * * Tomato Puree John Sexton & Co. Distributors Chicago—Brooklyn Established 1883."

Adulteration of the product was charged under the allegation that it consisted in part of a decomposed vegetable substance.

On January 27, 1936, a plea of nolo contendere having been entered, a fine of \$25 and costs was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25598. Adulteration and misbranding of butter. U. S. v. Urgel F. Asselin, trading as Asselin Creamery Co. Plea of nolo contendere. Fine, \$50. (F. & D. no. 36040. Sample no. 41536-B.)

This case was based upon a shipment of butter that contained less than 80 percent of milk fat.

On December 10, 1935, the United States attorney for the Western District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Urgel F. Asselin, trading as Asselin Creamery Co., Norway, Mich., alleging shipment in violation of the Food and Drugs Act as amended, on or about July 23, 1935, from Norway, Mich., to Niagara, Wis., of quantities of alleged butter that was adulterated and misbranded. The article was labeled in part: (Package) "Asselin's Lily Brand Butter * * * Cloverland's Finest One Pound Net Fine Creamery Butter Asselin's butter is made only from rich carefully selected cream in Upper Michigan's finest dairy food plant. Asselin Creamery Co. 'Where Cleanliness is Paramount.'"

Adulteration of the product was charged under the allegations that it contained less than 80 percent by weight of milk fat; and that it was a substance that had been substituted for butter, which the product purported to be.

Misbranding of the product was charged (a) under the allegations that there appeared on the packages the statement, to wit, "butter", that the product contained less than 80 percent by weight of milk fat, and that the said statement was false and misleading; and (b) under the allegation that the aforesaid statement was borne on the packages so as to deceive and mislead the purchaser.

On January 6, 1936, a plea of nolo contendere having been entered, a fine of \$50 was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25599. Adulteration of tomato puree. U. S. v. Niagara County Preserving Corporation. Plea of guilty. Fine, \$100. (F. & D. no. 36042. Sample no. 27724-B.)

This product contained a decomposed vegetable substance.

On November 18, 1935, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Niagara County Preserving Corporation, Wilson, N. Y., alleging shipment by it in violation of the Food and Drugs Act as amended, on or about October 18, 1934, from Wilson, N. Y., into the District of Columbia of quantities of tomato puree that was adulterated. The article was labeled in part: (Can) "Lyric Brand * * * Tomato Puree."

Adulteration of the product was charged under the allegation that it consisted in part of a decomposed vegetable substance.

On March 10, 1936, a plea of guilty having been entered, a fine of \$100 was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25600. Adulteration and misbranding of meat scrap. U. S. v. Mutual Rendering Co., a corporation. Plea of nolo contendere. Fine, \$12.50. (F. & D. no. 36049. Sample no. 8342-B.)

This case was based upon a shipment of meat scrap that contained an excessive amount of bone, and its label bore erroneous statements concerning its ingredients.

On December 20, 1935, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Mutual Rendering Co., a corporation, Philadelphia, Pa., alleging shipment in violation of the Food and Drugs Act as amended, on or about May 3, 1935, from Philadelphia, Pa., to Denton, Md., of quantities of meat scrap that was adulterated and misbranded. The article was labeled in part: (Sack) "100 lbs. Net. 55% Mureco Meat Scrap Guaranteed Analysis Protein 55% min. Fat 6% Min. Fibre 2% Max. Total Phos. Acid 10% Max. Manufactured by Mutual Rendering Co., Inc., Phila., Pa."

Adulteration of the product was charged (a) under the allegations that it purported to be meat scrap; that a quantity of bone over and above the amount contained in meat scrap had been mixed and packed with the product so as to reduce, lower, and injuriously affect the quality and strength of meat scrap which the said article purported to be; (b) under the allegation that a substance containing bone in excess of the permitted quantity and containing less protein than 55 percent, more fiber than 2 percent, and more phosphoric acid

than 10 percent had been substituted for the substance which the product purported to be, namely, meat scrap.

Misbranding of the product was charged (a) under the allegations that the tags attached to the sacks bore the statements, to wit, "55% * * * Meat Scrap Guaranteed Analysis Protein 55% Min. * * * Fibre 2% Max. Total Phos. Acid 10% Max."; that the protein content of the product was less than 55 percent, the fiber content was more than 2 percent, and the phosphoric acid content was more than 10 percent; that the aforesaid statements borne on the label of the product were false and misleading; (b) under the allegation that the aforesaid statements were borne on the label so as to deceive and mislead the purchaser; (c) under the allegation that the product was offered for sale under the distinctive name of another article, namely, meat scrap.

On January 21, 1936, a plea of nolo contendere having been entered, a fine of \$12.50 was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25601. Misbranding of cottonseed cake. U. S. v. Southland Cotton Oil Co., a corporation. Plea of guilty. Fine, \$150. (F. & D. no. 36069. Sample nos. 33021-B, 33022-B, 33023-B.)

The label of this article bore an incorrect statement as to the percentage of protein contained therein.

On January 6, 1936, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Southland Cotton Oil Co., a corporation, Waxahachie, Tex., alleging shipment in violation of the Food and Drugs Act as amended, on or about August 12, 1935, from Waxahachie, Tex., to Wichita Falls, Kans., of quantities of cottonseed cake that was misbranded. The article was labeled in part: (Sack and sack tag) "Net 43% Protein Cottonseed Cake or Meal Prime Quality Manufactured by Southland Cotton Oil Co., Waxahachie, Texas Guaranteed Analysis Crude Protein (not less than) 43%."

Misbranding of the article was charged (a) under the allegations that the tags attached to the sacks bore the statements, to wit, "43% Protein", and "Guaranteed Analysis: Crude Protein (not less than) 43%", that the protein contained in said article was less than 43 percent; that the aforesaid statements were false and misleading, and (b) under the allegation that the said statements were borne on said tags so as to deceive and mislead the purchaser.

On February 18, 1936, a plea of guilty having been entered, a fine of \$150 was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25602. Adulteration of frozen poultry. U. S. v. S. K. Produce Co., a corporation. Plea of guilty. Fine, \$10 and costs. (F. & D. no. 36074. Sample no. 39933-B.)

A decomposed animal substance, portions of animals unfit for food and products of diseased animals were found in this shipment of poultry.

On December 9, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the S. K. Produce Co., a corporation, Chicago, Ill., alleging shipment by it, in violation of the Food and Drugs Act, as amended, on or about July 19, 1935, from Chicago, Ill., to Baltimore, Md., of quantities of poultry that was adulterated. The product was labeled in part: (Barrels) "Bennett Food Co. Baltimore, Md. % Merchants Storage Corp."

Adulteration of the product was charged (a) under the allegation that it consisted in part of a filthy, decomposed, and putrid animal substance; (b) under the allegation that it consisted in part of portions of animals unfit for food; and (c) under the allegation that it was in part a product of diseased animals.

On February 5, 1936, a plea of guilty having been entered, a fine of \$10 and costs was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25603. Adulteration of tomato puree. U. S. v. 94 Cans of Tomato Puree. Default decree of condemnation and destruction. (F. & D. no. 36100. Sample no. 33175-B.)

This case involved canned tomato puree that contained filth resulting from worm and insect infestation.

On August 5, 1935, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 94 cases of tomato puree at Oklahoma City, Okla., consigned by the Currie Canning Co., of Grand Junction, Colo., alleging that the article had been shipped in interstate commerce on or about September 14, 1934, from the State of Colorado into the State of Oklahoma, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Heart O' The Rockies Brand Tomato Puree * * * The Currie Canning Co. Grand Junction, Colo."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On January 6, 1936, the sole intervenor having withdrawn its claim for the property, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25604. Adulteration and misbranding of tomato paste. U. S. v. 141 Cases of Tomato Paste. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36114. Sample no. 28609-B.)

This article was wholly or partially a filthy vegetable substance, and its label erroneously represented it to be of foreign production.

On August 13, 1935, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel, and on August 28, 1935, an amended libel, praying seizure and condemnation of 141 cases of tomato paste at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce, on or about December 4, 1934, by the Italian Food Products Co., Inc., from Long Beach, Calif., to Pittsburgh, Pa., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Can) "Tomato Paste Salsa Di Pomodoro Net Weight 6 Ozs. Leone Di San Marco Packed for Sausage Mfg. Co. 2127 Penn Ave., Pgh. Pa. Contents 6 Ozs. Prepared with carefully selected fresh sun-ripened California tomatoes."

Adulteration of the article was charged under the allegation that it consisted in whole or in part of a filthy vegetable substance.

Misbranding of the article was charged (a) under the allegations that the label bore the statement, to wit, "Salsa Di Pomodoro * * * Leone Di San Marco", and a design consisting of the Italian national colors, namely, red, white, and green; that the aforesaid statement and design were false and misleading and tended to deceive and mislead the purchaser when applied to a tomato paste of domestic manufacture; (b) under the allegations that the product was manufactured in California; and that the purport of the label was that the article was a foreign product.

On January 29, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25605. Adulteration of canned salmon. U. S. v. 1,486 Cases of Canned Salmon. Trial to the court without a jury. Decree of condemnation and forfeiture of some of the product, with provision for release thereof to the claimant for reconditioning upon the furnishing of bond in the sum of \$500. Remainder of the product found not to be adulterated and ordered unconditionally released to the claimant. (F. & D. no. 36129. Sample nos. 40422-B, 40426-B.)

Some of the product seized in this proceeding was found to consist in whole or in part of a decomposed animal substance. The remainder of it was found not to be adulterated in any respect.

On August 10, 1935, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,486 cases of canned salmon at Seattle, Wash., alleging that the article had been shipped in interstate commerce, on or about July 6, 1935, from Cordova, Alaska, to Seattle, Wash., and charging adulteration in violation of the Food and Drugs Act. The shipment was made by the New England Fish Co., Cordova, Alaska.

Adulteration of the product was charged under the allegation that it consisted in whole or in part of a decomposed animal substance.

The New England Fish Co., claimant, answered the libel denying the charge. The issue was tried to the court without a jury.

On March 4, 1936, a decree was entered condemning and forfeiting a portion of the product, but providing for release of such portion to the claimant for reconditioning upon furnishing of bond in the sum of \$500, and finding that the remainder was not adulterated.

W. R. GREGG, *Acting Secretary of Agriculture.*

25606. Adulteration and misbranding of canned tomatoes. U. S. v. 48 Cases of Canned Tomatoes, and other cases. Default decrees of condemnation and destruction. (F. & D. nos. 36146 to 36152, incl. Sample nos. 35455-B to 35461-B, incl.)

These cases involved several lots of canned tomatoes that contained contaminants resulting from corrosion of the cans. All lots but one were falsely labeled as to the name of the packer and the place of manufacture.

On or about August 21, 1935, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 521 cases of canned tomatoes in various lots at Columbus, Indianapolis, and Terre Haute, Ind., alleging that the article had been shipped in interstate commerce between the dates of May 29 and June 10, 1935, by the Reliable Trading Co., from Cincinnati, Ohio, and charging adulteration and misbranding in violation of the Food and Drugs Act. All lots but one were labeled: "Smithson Brand Salted Tomatoes * * * Packed by H. M. Parrott & Co. Preston, Md." The remaining lot was labeled: "Home Circle Brand Tomatoes * * * Packed for National Wholesale Grocery Co., Indianapolis, Indiana."

The article was alleged to be adulterated in that contaminants resulting from corrosion of the cans had been mixed and packed with the article.

Misbranding was alleged with respect to portions of the article for the reason that the statement, "Packed by H. H. Parrott, Preston, Md.", was false and misleading and tended to deceive and mislead the purchaser, since it was packed in Kentucky by the Walton Canning Co., of Walton, Ky.

On October 25, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25607. Adulteration of canned orange juice. U. S. v. 84 Cases, et al., of Orange Juice. Tried to the court. Judgments for the Government. Decrees of condemnation with provision for release under bond for salvaging. Amended decrees of destruction. (F. & D. nos. 36161, 36345. Sample nos. 8181-B, 8182-B, 8183-B, 35470-B, 35471-B.)

These actions involved canned orange juice that was in part decomposed.

On August 19 and September 17, 1935, the United States attorney for the Eastern District of Kentucky, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 195½ cases of canned orange juice at Lexington, Ky., consigned from East San Pedro, Calif., on or about July 7, 1935, alleging that the article had been shipped in interstate commerce from the State of California into the State of Kentucky, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Absopure California Orange Juice Absopure Fruit Products, Inc., Anaheim, California."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

The Absopure Fruit Products, Inc., Anaheim, Calif., appeared as claimant and waived a trial by jury. On November 9, 1935, a motion to dismiss the libels having been overruled and the cases having been submitted to the court on the pleadings, the statements of attorneys and evidence introduced on behalf of the Government and claimant, judgments of condemnation were entered providing that the product might be released to the claimant under bond, conditioned that the bad cans be removed therefrom. On February 27, 1936, the claimant having failed to execute a bond to secure release of the goods, amended decrees were entered ordering that the product be destroyed and that the claimant pay costs in both cases, amounting to \$87.30.

W. R. GREGG, *Acting Secretary of Agriculture.*

25608. Adulteration of tomato paste. U. S. v. 38 Cartons of Tomato Paste, and other cases. Default decrees of condemnation and destruction. (F. & D. nos. 36206, 36207, 36208. Sample no. 15824-B.)

These cases involved canned tomato paste that contained filth resulting from worm infestation.

On August 23, 1935, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 283 cartons of canned tomato paste at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about June 5, 1935, by the Anaheim Canning Co., from Anaheim, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Kitty Brand Tomato Paste * * * Packed by Glorioso Canning Co., Anaheim, Cal."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On October 2 and October 4, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25609. Adulteration of tomato catsup. U. S. v. 55 Cases and 60 Cases of Tomato Catsup. Default decrees of destruction. (F. & D. nos. 36240, 36241. Sample nos. 23123-B, 23125-B.)

These cases involved tomato catsup that contained filth resulting from worm infestation.

On August 26, 1935, the United States attorneys for the Districts of Minnesota and North Dakota, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 55 cases of tomato catsup at Moorehead, Minn., and 60 cases of tomato catsup at Fargo, N. Dak., alleging that the article had been shipped in interstate commerce on or about July 12, 1935, by the Hawaiian Pineapple Co., from Alameda, Calif., and charging adulteration in violation of the Food and Drugs Act. A portion of the article was labeled: "Hunts Superior Tomato Catsup * * * Packed by Hunt Bros. Packing Co., San Francisco, California." The remainder was labeled: "Hunts Tomato Catsup * * * Hunt Bros. Packing Co. San Francisco, Calif."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On October 21, 1935, and January 11, 1936, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25610. Adulteration of tomato ketchup. U. S. v. 95 Cases of Ketchup. Default decree of condemnation and destruction. (F. & D. no. 36248. Sample no. 9978-B.)

This case involved ketchup that contained filth resulting from worm and insect infestation.

On August 31, 1935, the United States attorney for the Western District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 95 cases of ketchup at San Antonio, Tex., alleging that the article had been shipped in interstate commerce on or about February 26, 1935, by the Kuner-Empson Co., from Brighton, Colo., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Kuner's Ketchup, packed by Kuner Pickle Company, Brighton, Colo."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On October 25, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25611. Adulteration and misbranding of tomato catsup. U. S. v. 698 Cases of Tomato Catsup. Default decree of condemnation and destruction. (F. & D. no. 36254. Sample nos. 16092-B, 16093-B, 16094-B.)

This case involved shipments of canned and bottled tomato catsup that was adulterated because of the presence of filth resulting from worm infestation. A part of the canned catsup was originally labeled "7 lbs.", but on some of the cans the figure "7" had been obliterated. Examination of those cans on which the "7" had not been obliterated showed that they contained less than 7 pounds.

On or about September 9, 1935, the United States attorney for the District of Arizona, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 698 cases of tomato

catsup at Phoenix, Ariz., alleging that the article had been shipped in interstate commerce in various lots between the dates of January 23 and July 10, 1935, by the California Supply Co., in part from San Francisco, Calif., and in part from Mountain View, Calif., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Our Choice Tomato Catsup * * * Western States Grocery Company Distributors Oakland, California."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

Misbranding of a portion of the canned tomato catsup was alleged for the reason that it was food in package form and failed to bear a plain and conspicuous statement of the quantity of the contents, since the statement made was either incorrect or missing.

On December 19, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25612. Adulteration of tomato catsup. U. S. v. 29 Cases and 20 Cases of Tomato Catsup. Default decrees of condemnation and destruction. (F. & D. nos. 36268, 36541. Sample nos. 35195-B, 43465-B.)

This case involved tomato catsup that contained excessive mold.

On September 3 and October 25, 1935, the United States attorneys for the Southern District of Ohio and the District of Massachusetts, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 29 cases of tomato catsup at Cincinnati, Ohio, and 20 cases of tomato catsup at Lawrence, Mass., alleging that the article had been shipped in interstate commerce on or about July 2 and August 19, 1935, by the Red Wing Co., Inc., from Fredonia, N. Y., and charging adulteration in violation of the Food and Drugs Act. A portion of the article was labeled: "Dot Dot's Good Tomato Catsup * * * Distributed by The Janszen Company Cincinnati Ohio." The remainder was labeled: "Red Wing Pure Tomato Catsup * * * The Red Wing Company, Inc. Fredonia, N. Y."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On October 21 and December 23, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25613. Adulteration of tomato catsup. U. S. v. 46 Cases of Tomato Catsup. Default decree of condemnation and destruction. (F. & D. no. 36270. Sample no. 35839-B.)

This case involved tomato catsup that contained filth resulting from worm and insect infestation.

On September 6, 1935, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 46 cases of tomato catsup at Denver, Colo., consigned by Stekely Bros. Co., Greenwood, Ind., alleging that the article had been shipped in interstate commerce on or about October 16, 1934, from the State of Indiana into the State of Colorado, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Ruby Tomato Catsup * * * Fame Canning Co. Inc. * * * Indianapolis, Ind."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On November 25, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25614. Adulteration of tomato catsup. U. S. v. 140 Cases of Tomato Catsup. Decree of condemnation. Product released under bond. (F. & D. no. 36304. Sample no. 35842-B.)

This case involved tomato catsup a part of which contained filth resulting from worm infestation.

On September 11, 1935, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 140 cases of tomato catsup at Denver, Colo., consigned by Van Camp's, Inc., alleging that the article had been

shipped in interstate commerce on or about October 17, 1934, from Indianapolis, Ind., into the State of Colorado, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Glen Valley Brand * * * Tomato Catsup Prepared by Van Camp's, Inc., Indianapolis, Ind."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On November 26, 1935, Stokely Bros. & Co., having filed a claim and answer admitting the allegations of the libel with respect to 12 cases of the product and denying the allegations with respect to the remainder, and the court having found the answer of the claimant to be true, judgment of condemnation was entered and it was ordered that the product be delivered to the claimant under a bond conditioned that the good and bad portions be separated under the supervision of this Department and the good portion only released.

W. R. GREGG, *Acting Secretary of Agriculture.*

25615. Adulteration of tomato paste. U. S. v. 16 Cases of Tomato Paste. Default decree of condemnation and destruction. (F. & D. no. 36313. Sample no. 43326-B.)

This case involved canned tomato paste that contained filth resulting from worm infestation.

On September 12, 1935, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 16 cases of tomato paste at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about September 5, 1934, by the Manteca Canning Co., from Stockton, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Mattina Brand * * * Tomato Paste * * * Manteca Canning Company Manteca Calif Uso Napolium."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On January 20, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25616. Adulteration and misbranding of Vegetrate preparations. U. S. v. 12 Packages and 36 Packages of Vegetrate No. B. F. 1, and other cases. Default decrees of condemnation and destruction. (F. & D. nos. 36339 to 36344, incl., 36671 to 36677, incl. Sample nos. 35967-B, 38430-B to 38437-B, incl., 40062-B, 40063-B, 40066-B to 40069-B, incl.)

These products were represented to consist entirely of vegetable food substances. All were misbranded because of unwarranted curative and therapeutic claims in the labeling, and portions also were adulterated and further misbranded because of the presence of laxative drugs and calcium carbonate, a mineral substance.

On September 19 and November 29, 1935, the United States attorney for the District of Columbia, acting upon reports by the Secretary of Agriculture, filed in the Supreme Court of the District of Columbia, holding a district court, libels praying seizure and condemnation of 338 packages and bottles of various Vegetrate formulas at Washington, D. C., alleging that the article had been shipped in interstate commerce between the dates of May 29, and October 25, 1935, by the Health Foundation of California, from Los Angeles, Calif., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The articles were labeled in part, variously: "Vegetrate No. B. F. 1"; "Vegetrate B. F. 1 Powder"; "Vegetrate Formula H. F. C. No. A-45 [or "D-44", "A-417", or "H-410"]."

Analyses of samples of the product identified as "B. F. 1" showed that it consisted essentially of vegetable substances including rice, bran, cinnamon, cranberry, kelp, and leafy vegetables. All samples of the B. F. 1 contained senna leaves or rhubarb or both, those in tablet form also containing calcium carbonate. The remaining products consisted of leaf, stem, and root material.

The B. F. 1 was alleged to be adulterated in that its strength fell below the professed standard under which it was sold, (carton) "Made entirely from concentrated fresh raw fruits and vegetables" or "Made from concentrated, fresh raw vegetables and fruits", since the product contained rhubarb root or senna leaves, or both, cathartic drugs, not fruits nor edible vegetables, and three of the five lots contained calcium carbonate, a mineral substance.

Misbranding of the B. F. 1 was alleged for the reason that the name of the product, "Vegetrate", the cut depicting fruits and vegetables in a circular ac-

companying several of the lots and the following statements, or statements substantially the same, appearing in the labels, were false and misleading, since they created the impression that the article consisted of such fruits and vegetables as are ordinarily used for food purposes: (Carton of certain lots) "Vegetrate The Vegetable Concentrate Corrective * * * Made entirely from concentrated fresh raw fruits and vegetables * * * Vegetrate is * * * compounded so as to retain valuable minerals * * * all in organic form"; (carton of remaining lots) "Made from concentrated, fresh raw vegetables and fruits. Vegetrate BF-1 is scientifically compounded so as to retain valuable minerals, particularly calcium, phosphorus, iron, magnesium, sodium, potassium and sulphur, all in organic form, as well as the natural chlorophyll of the vegetable leaf"; (circular shipped with certain lots) "Vegetrate * * * The producers of Vegetrate make no secret about its composition. * * * fruits and vegetables * * * it was necessary to devise some means of furnishing the minerals and vitamins as contained in fruits and vegetables * * * Vegetrate is the result of such a quest. It is made of the essential fruits and vegetables * * * An ounce of vegetrate contains the value of from fifty to one hundred times that quantity of raw fruits and vegetables. When the cell is broken as it is in Vegetrate, all of the minerals and vitamins are released * * * in answer to the question, 'What is Vegetrate'? we can truthfully say that Vegetrate is the concentrated essence of healthful raw fruits and vegetables * * * The Vegetable Concentrate Corrective."

The libels charged misbranding of all products in that the following statements, or statements substantially the same, appearing in the labeling were statements regarding the curative and therapeutic effects of the articles and were false and fraudulent: (B. F. 1) "Hyperacidity Brings you life anew. A quick source of vital elements Alkalizer and Builder Vegetrate's organic mineral salts neutralize the acids found in most deficiency diseases. These natural salts help elimination and help to restore normal equilibrium to diseased function, especially when combined with our alkalizing diet for this purpose * * * Corrective * * * Health Foundation"; (H. F. C. No. A-45) "The Arthritic The Nutritional objective is to supply the body with a uniform and high proportion of Organic Phosphorus, thus facilitating the excretion of calcium in the form of calcium phosphate"; (H. F. C. D-44) "The nutritional objective is to supply the Pancreas with the mineral element constituents essential to the fabrication of its normal secretion. Highly valuable as a food adjuvant for the Diabetic (Mellitus) Health Foundation. Vegetrate Formula No. (H. F. C. D. 44) is composed entirely of the concentrates of raw vegetables, selected and grown for their high organic mineral content. These vegetable concentrates are so processed and proportioned as to make available for human assimilation organic calcium, phosphorus, iron, sodium, magnesium, sulphur, and chlorine, but selected from sources of very low carbohydrate content. The actual breakage of the cellulose cell walls (indigestible) of the vegetable render the mineral colloids therein more available for human assimilation"; (H. F. C. No. A-417, \$1 size) "Hay Fever Asthmatic The Nutritional objective is to supply the body with a uniform and generous supply of Organic Iron, Calcium and Phosphorus, from sources rich in natural chlorophyll. Health Foundation", (H. F. C. No. A-417, \$3 size) "Highly valuable as a Nutritional Adjuvant for the Asthmatic The Nutritional objective is to supply the body with a uniform and generous supply of Organic Iron, Calcium and Phosphorus, from sources rich in natural chlorophyll. A food concentrate recommended highly as a nutritional adjuvant in the dietary care of the Asthmatic Health Foundation Hay Fever. Vegetrate Formula No. (H. F. C. A-417) is a food composed entirely of the concentrates of raw leafy vegetables grown and selected for their high organic mineral content. The leafy vegetable ingredients, spinach, watercress, endive, lettuce, beet leaves, celery and leaves, etc., are all prolific sources of chlorophyll, widely regarded as the 'foundation building material for hemoglobin formation.' The actual breakage of the cellulose cells makes available for human assimilation, organic iron, calcium and phosphorus"; (H. F. C. H-410) "The Nutritional objective is to supply the body with a high proportion of phosphorus to facilitate the excretion of calcium in the form of calcium phosphate and by a supply of apiol to relieve the nervous tension. The tablet is coated with chocolate to avoid the aroma of garlic. A food recommended as a dietary adjuvant in the reduction of hypertension. Health Foundation"; (circular enclosed with portion of B. F. 1) "* * * fruits and vegetables are absolutely essential toward maintaining good health, natural balance and physical well being. Fruits and vegetables are the stabilizing foods, the alkalizing foods, so essential

toward overcoming the hyperacidity invariably found in our refined diets. Unfortunately, modern civilized diet does not include enough of the raw fruits and vegetables to make a balanced meal. As a result, we suffer from the so-called malnutritional diseases—and many diseases come from malnutrition. * * * One of the main attributes of Vegetrate is its ability to foster and quicken elimination, to get rid of the toxic poisons and waste matter that so clog the system and sap the vitality. Practically all food scientists agree that more of the fruits and vegetables ought to be included in the individual's dietary to prevent disease, to insure a greater freedom from infection. Nevertheless, the fact remains that we do not take these fruits and vegetables in sufficient quantity. National figures show that every man, woman and child in this country is consuming one hundred thirty-five pounds of white, refined sugar in a multitude of forms. Sugar is an acid producing food. Every pound of meat—and we are consuming approximately one hundred and fifty pounds per capita annually—contributes its proportion of acids which must be neutralized. To overcome the effects of acid producing foods, to counter-balance the painful results of the malnutritional diseases, it is essential that we consume liberal quantities of mineral salts and vitamins. Often by the time a disease has developed to the point where it shows itself in the form of symptoms, the patient has already suffered from years of malnutrition. Consequently, it was necessary to devise some means of furnishing the minerals and vitamins as contained in fruits and vegetables and, at the same time, giving it in such a form that the body could readily take it and assimilate it. Vegetrate is the result of such a quest. * * * When the cell is broken as it is in Vegetrate, all of the minerals and vitamins are released for quick assimilation. Nothing is wasted. Neutralization is carried on quickly and effectively. Acid condition is relieved. Consequently, in answer to the question, 'What is Vegetrate?' we can truthfully say that Vegetrate is the concentrated essence of healthful raw fruits and vegetables, containing most of the minerals and vitamins necessary for the alkaline balance of the blood in an easily assimilable form. Is it any wonder, therefore, that we think so highly of our product, that we take it ourselves for our own ailments and indiscretions, and that we have secured such splendid results in the treatment of those diseases caused by faulty diet?"

On October 11, 1935, and January 23, 1936, no claimant having appeared, judgments of condemnation were entered and the products were destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25617. Adulteration of tomato catsup. U. S. v. 146 Cartons of Tomato Catsup. Consent decree of condemnation. Product released under bond. (F. & D. no. 36358. Sample no. 37686-B.)

This case involved a shipment of tomato catsup, samples of which were found to contain excessive mold.

On September 17, 1935, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 146 cartons of tomato catsup at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about September 4, 1934, by Crosse & Blackwell, from Baltimore, Md., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Crosse and Blackwell Fancy Tomato Catsup, New York, London, Made in USA."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On October 3, 1935, Crosse & Blackwell Co., Inc., claimant, having admitted the allegations of the libel, and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it should not be sold or otherwise disposed of contrary to the provisions of the Food and Drugs Act.

W. R. GREGG, *Acting Secretary of Agriculture.*

25618. Adulteration of huckleberries. U. S. v. 6 Crates of Huckleberries. Default decree of condemnation and destruction. (F. & D. no. 36402. Sample no. 44281-B.)

This case involved a shipment of huckleberries that contained maggots.

On August 15, 1935, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of six crates of huckleberries at Buffalo, N. Y., alleging that the article had been shipped in interstate

commerce on or about August 13, 1935, by Walter W. Bliss, from Peckville, Pa., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid vegetable substance.

On November 14, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25619. Adulteration of huckleberries. U. S. v. 25 Crates of Huckleberries. Consent decree of condemnation and destruction. (F. & D. no. 36403. Sample no. 44282-B.)

This case involved huckleberries that were found to contain maggots.

On August 15, 1935, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 25 crates of huckleberries at Buffalo, N. Y., alleging that the article had been shipped in interstate commerce on or about August 13, 1935, by Grossinger Bros., from Eynon, Pa., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Fresh-Pak Sun ripened Blue Ridge Mountain Huckleberries * * * A. Grossinger, Eynon, Penna."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy, decomposed, or putrid vegetable substance.

On or about October 1, 1935, Grossinger Bros. having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25620. Misbranding of canned dry peas. U. S. v. 79 Cases of Canned Dry Peas. Decrees of condemnation. Product released under bond to be relabeled. (F. & D. no. 36423. Sample no. 32506-B.)

This case involved canned dry peas that were labeled to convey the impression that they were canned green peas.

On October 3, 1935, the United States attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 79 cases of canned dry peas at Memphis, Tenn., alleging that the article had been shipped in interstate commerce on or about August 19, 1935, by the Blytheville Canning Co., Inc., from Blytheville, Ark., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Miss-Co Brand Prepared From Dry Peas * * * Packed by Blytheville Canning Co., Inc. Blytheville, Ark. [vignette showing two dishes of green peas]."

The article was alleged to be misbranded in that the prominent designation "Peas" was false and misleading and tended to deceive and mislead the purchaser when applied to a different generic product, viz, "dry peas" and was not corrected by the relatively inconspicuous word "Dry." The article was alleged to be further misbranded in that the vignette showing dishes of green peas was false and misleading and tended to deceive and mislead the purchaser since it suggested that the product was canned peas; whereas it consisted of dried peas, a different generic product. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article, namely "Peas."

On November 21, 1935, the United States attorney for the Western District admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be relabeled under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

25621. Adulteration of butter. U. S. v. Borden's Produce Co., Inc. Plea of guilty. Fine, \$50 and costs. (F. & D. no. 36051. Sample no. 31052-B.)

The article in this case was labeled "butter" but it contained less than 80 percent by weight of milk fat.

On November 21, 1935, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Borden's Produce Co., Inc., Kansas City, Mo., alleging shipment in violation of the Food and Drugs Act as amended, on or about July 3, 1935, from Kansas City, Mo., to Scranton, Pa., of quantities

of butter that was adulterated. The article was labeled in part: (Carton) "One Pound Net Weight Farmfield Reg. U. S. Pat. Off. Fine Creamery Butter."

Adulteration of the product was charged under the allegations that it was a product that contained less than 80 percent by weight of milk fat and that it was a product which had been substituted for butter.

On February 14, 1936, a plea of guilty having been entered, a fine of \$50 and costs was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25622. Adulteration of canned salmon. U. S. v. 250 Cartons of Canned Salmon. Decree of condemnation. Product released under bond for segregation and destruction of decomposed portion. (F. & D. no. 36433. Sample no. 43311-B.)

This case involved canned salmon which was in part decomposed.

On September 25, 1935, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 250 cartons of canned salmon at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about August 5, 1935, by the Kelley-Clarke Co., from Seattle, Wash., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Sea Harvest Brand Alaska Pink Salmon * * * Packed for Wm. W. McBride Co., Seattle, Wash., Distributors."

The article was alleged to be adulterated in that it consisted in part of a decomposed animal substance.

On November 18, 1935, the Washington Fish & Oyster Co., Seattle, Wash., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that the decomposed portion be segregated and destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25623. Misbranding of bone and meat scrap. U. S. v. 140 Bags of Bone & Meat Scrap. Default decrees of condemnation and destruction. (F. & D. no. 36440. Sample no. 8345-B.)

This case involved a shipment of bone and meat scrap that contained less protein than declared on the label.

On or about October 1, 1935, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 140 bags of bone and meat scrap at Derwood, Md., alleging that the article had been shipped in interstate commerce on or about September 13, 1935, by Norton & Co., from Washington, D. C., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Bone & Meat Scrap Guaranteed Analysis Protein 50% * * * Manufactured by Norton & Co., Washington, D. C."

The article was alleged to be misbranded in that the statement on the label, "Protein 50%", was false and misleading and tended to deceive and mislead the purchaser.

On December 17, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25624. Adulteration and misbranding of alfalfa meal. U. S. v. 120 Bags of Alfalfa Meal. Decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 36442. Sample no. 8347-B.)

This case involved a product sold as meal made from alfalfa leaf. Examination showed that it was not leaf meal and that it contained less protein and more fiber than declared on the label.

On or about September 30, 1935, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 120 bags of alfalfa meal at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about August 8, 1935, by the Saunders Mills, Inc., from Toledo, Ohio, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Tag) "Alfalfa Meal Leaf Velvet Brand * * * Manufactured by Saunders Mills, Inc. Toledo, Ohio."

The article was alleged to be adulterated in that alfalfa meal had been substituted for alfalfa leaf meal which the article purported to be.

Misbranding was alleged for the reason that the following statements in the labeling were false and misleading and tended to deceive and mislead the pur-

chaser: (Tag) "Alfalfa Meal Leaf Made Principally from Alfalfa Leaves Guaranteed Analysis Crude Protein, not less than 20.0 per cent * * * Crude Fibre, not more than 18.0 per cent."

On October 19, 1935, the Baltimore Feed & Grain Co., Baltimore, Md., having appeared as claimant, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be relabeled in conformity with the law.

W. R. GREGG, *Acting Secretary of Agriculture.*

25625. Adulteration of apples. U. S. v. 594 Bushels of Apples. Judgment of condemnation. Product released under bond conditioned that deleterious substances be removed. (F. & D. no. 36500. Sample no. 45059-B.)

This case involved apples that were contaminated with arsenic and lead spray residue.

On September 28, 1935, the United States attorney for the Southern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 594 bushels of apples at Huntington, W. Va., alleging that the article had been shipped in interstate commerce between the dates of September 20 and September 23, 1935, by the Quaker Bottom Orchard Co., from Proctorville, Ohio, and charging adulteration in violation of the Food and Drugs Act.

The libel charged that the apples were adulterated in that they contained added deleterious ingredients, namely, lead and arsenic, which might have rendered them dangerous to health.

On October 31, 1935, the Quaker Bottom Orchard Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the apples be released under bond conditioned that they be rewashed in order to remove the arsenic and lead spray residue.

W. R. GREGG, *Acting Secretary of Agriculture.*

25626. Adulteration of apples. U. S. v. 25 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36571. Sample no. 39059-B.)

This case involved a shipment of apples that were contaminated with arsenic and lead.

On or about September 12, 1935, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 25 bushels of apples at Pampa, Tex., alleging that the article had been shipped in interstate commerce on September 12, 1935, by D. R. Brown (Standard Food Market), from Springdale, Ark., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it injurious to health.

On October 24, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25627. Adulteration of butter. U. S. v. 1 Tub of Butter. Default decree of condemnation and destruction. (F. & D. no. 36586. Sample no. 39875-B.)

This case involved butter samples of which were found to contain maggots, portions of insects, rodent hair, mold, and dirt.

On October 11, 1935, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one tub of butter at Baltimore, Md., consigned by William O. Redman, Petersburg, W. Va., alleging that the article had been shipped in interstate commerce on or about October 8, 1935, from the State of West Virginia into the State of Maryland, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On November 19, 1935, no claimant having appeared, judgment of condemnation was entered, and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25628. Adulteration and misbranding of wine. U. S. v. 13 Barrels of Apricot Type Wine, et al. Decree of condemnation. Product released under bond for relabeling. (F. & D. no. 36711. Sample nos. 51127-B to 51130-B, incl.)

These products consisted of blended grape wines that were labeled to convey the impression that they were apricot, cherry, peach, and blackberry wines, respectively. Certain of the varieties contained less alcohol than indicated on the barrel and shipping tag.

On December 6, 1935, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 32 barrels of various types of wine at Baltimore, Md., alleging that the articles had been shipped in interstate commerce on or about November 4 and November 15, 1935, by the Fredonia Products Co., Inc., from Fredonia, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: (Shipping tag and barrels) "Apricot Type" [or "Peach Type", "Cherry Type", or "Blackberry Type"] * * * From Fredonia Products Co., Inc. * * * Fredonia, N. Y." The apricot and peach were further labeled: (Shipping tag) "21%"; (tracing on barrels) "51 Gal. N. Y. S. * * * Less 21% Alc."

The articles were alleged to be adulterated in that a product consisting of a blend of grape wines, which were not apricot, cherry, peach, or blackberry, had been substituted for the articles.

Misbranding was alleged for the reason that the statements on the shipping tags and barrels, "Apricot Type", "Cherry Type", "Peach Type", and "Blackberry Type", respectively, were false and misleading and tended to deceive and mislead the purchaser when applied to a blend of grape wines and for the further reason that they were offered for sale under the distinctive names of other articles. Misbranding of the apricot and peach types was alleged for the further reason that the statement on the shipping tag, "21%", and on the barrels, "Less 21% Alc.", were false and misleading and tended to deceive and mislead the purchaser when applied to wines containing less than 21 percent of alcohol.

On December 11, 1935, H. L. Caplan & Co., Inc., trading as the Belvedere Wine & Liquor Co., having appeared as claimant, judgment of condemnation was entered and it was ordered that the products be released under bond, conditioned that they be relabeled under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

25629. Adulteration of apples. U. S. v. 300 Bushels of Apples. Product ordered released under bond, conditioned that deleterious substances be removed. (F. & D. no. 36740. Sample no. 47889-B.)

This case involved a shipment of apples that were contaminated with lead and arsenic.

On October 28, 1935, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 300 bushels of apples at Toledo, Ohio, alleging that the article had been shipped in interstate commerce on or about October 21, 1935, by W. A. Morrin, from Erie, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained poisonous ingredients, lead and arsenic, which might have rendered it injurious to health.

On November 1, 1935, W. A. Morrin, having appeared as claimant, judgment was entered ordering that the product be released under bond, conditioned that it be washed in order to remove the deleterious substances.

W. R. GREGG, *Acting Secretary of Agriculture.*

25630. Adulteration of butter. U. S. v. 40 Cases and 60 Cases of Butter. Default decree of condemnation. Product ordered denatured and sold. (F. & D. no. 36768. Sample nos. 51867-B, 51871-B.)

This case involved an interstate shipment of butter, samples of which were found to contain filth.

On November 4, 1935, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 100 cases of butter at Buffalo, N. Y., alleging that the article had been shipped in interstate commerce on or about October 24, 1935, by Swift & Co., from Evansville, Ind., and charging adulteration in violation of the Food and Drugs Act. The article was

labeled in part: "Ohio State Brand Creamery Butter * * * distributed by West and Company * * * Chicago."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, putrid, or decomposed animal substance.

On December 2, 1935, no claimant having appeared, judgment of condemnation was entered. On December 23, 1935, the decree was modified to permit the United States marshal to sell the product to be denatured under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

25631. Adulteration of chubs (fish). U. S. v. 3 Boxes of Chubs, and other actions. Default decrees of condemnation and destruction. (F. & D. nos. 36776 to 36782, incl. Sample nos. 30161-B, 42611-B, 42612-B, 42795-B to 42798-B, incl.)

These cases involved fish that were infested with worms.

On November 6, 7, 8, and 9, 1935, the United States attorney for the Eastern District of New York, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 23 boxes of chubs at Brooklyn, N. Y., alleging that the article had been shipped from Dorion, Ontario, Canada, by the Dorion Fish Co., between the dates of October 29 and November 5, 1935, into the State of New York, and charging adulteration in violation of the Food and Drugs Act. A portion of the article was labeled: "Dorion Fish Co. Dorion Ontario."

The article was alleged to be adulterated in that it consisted in part of filthy animal substance and in that it consisted of portions of animals unfit for food.

On December 3, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25632. Adulteration of apples. U. S. v. 224 Boxes of Apples. Consent decree of condemnation. Product released under bond, conditioned that deleterious substances be removed. (F. & D. no. 36818. Sample no. 45946-B.)

This case involved a shipment of apples that were contaminated with lead and arsenic.

On November 15, 1935, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 224 boxes of apples at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about October 27, 1935, by the Ashland Fruit & Produce Co., from Ashland, Oreg., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Siskiyou Brand * * * Ashland Fruit & Produce Co. Packers and Shippers."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, lead and arsenic, which might have rendered it injurious to health.

On December 11, 1935, Jacobs, Malcolm & Burt, claimants, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be washed in order to remove the deleterious substances.

W. R. GREGG, *Acting Secretary of Agriculture.*

25633. Adulteration of apples. U. S. v. 516 Baskets of Apples. Product released under bond conditioned that the deleterious substances be removed. (F. & D. no. 36828. Sample no. 48988-B.)

This case involved an interstate shipment of apples that were contaminated with lead and arsenic.

On November 27, 1935, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 516 baskets of apples at St. Joseph, Mo., alleging that the article had been shipped in interstate commerce on or about October 6, 1935, by Triplett & Brown, from Troy, Kans., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained poisonous or deleterious ingredients, arsenic and lead, which might have rendered it injurious to health.

On December 14, 1935, Triplett & Brown, claimants, having admitted the allegations of the libel and having consented that judgment be entered for the

condemnation of the product, a decree was entered finding the product adulterated and ordering that it be released under bond conditioned that it be washed in order to remove the deleterious ingredients.

W. R. GREGG, *Acting Secretary of Agriculture.*

25634. Adulteration of apples. U. S. v. 50 Bushels of Winesap Apples. Default decree of forfeiture. Product ordered peeled to remove deleterious substances, and delivered to a charitable institution. (F. & D. no. 36830. Sample no. 49118-B.)

This case involved an interstate shipment of apples, examination of which showed the presence of lead and arsenic which might have rendered them harmful to health.

On November 26, 1935, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 50 bushels of apples at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about October 18, 1935, by the Killarney Fruit Ranch, from Parker, Kans., and that it was adulterated in violation of the Food and Drugs Act. The article was labeled in part: (Baskets) "Killarney Fruit Ranch, Parker, Kans."

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it injurious to health.

On January 15, 1936, no claimant having appeared, judgment of forfeiture was entered and it was ordered that the apples be peeled to remove the deleterious substances, and delivered to some charitable institution.

W. R. GREGG, *Acting Secretary of Agriculture.*

25635. Adulteration of apples. U. S. v. 59 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 36332. Sample nos. 54956-B, 54964-B, 54965-B, 54966-B.)

This case involved a shipment of apples that were contaminated with arsenic and lead.

On October 31, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 59 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 24, 1935, by Luther Latchaw, from Pullman, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "From Luther Latchaw, Pullman, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On December 31, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25636. Adulteration of apples. U. S. v. 150 Bushels of Apples. Consent decree of condemnation. Product released under bond. (F. & D. no. 36837. Sample no. 55127-B.)

This case involved a shipment of apples that were contaminated with arsenic and lead.

On November 20, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 150 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about September 4, 1935, by A. Bartz, from Stevensville, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Alfred R. Bartz Stevensville, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On December 11, 1935, Alfred R. Bartz, claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that the deleterious substances be removed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25637. Adulteration of apples. U. S. v. 301 Bushels of Apples. Consent decree of condemnation. Product released under bond, conditioned that deleterious substances be removed. (F. & D. no. 36842. Sample no. 56437-B.)

This case involved a shipment of apples that were contaminated with arsenic and lead spray residue.

On or about November 16, 1935, the United States attorney for the Southern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 301 bushels of apples at Huntington, W. Va., alleging that the article had been shipped in interstate commerce between the dates of September 26 and October 12, 1935, by James Love, from Proctorville, Ohio, and charging adulteration in violation of the Food and Drugs Act.

The apples were alleged to be adulterated in that they contained added deleterious ingredients, lead and arsenic, which might have rendered them dangerous to health.

On or about November 20, 1935, James Love, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the apples be rewashed in order to remove the deleterious substances.

W. R. GREGG, *Acting Secretary of Agriculture.*

25638. Adulteration of butter. U. S. v. One Tub of Butter. Default decree of condemnation and destruction. (F. & D. no. 36843. Sample nos. 30586-B, 42610-B.)

This case involved an interstate shipment of butter that contained rodent hair, insects, and other extraneous matter.

On November 19, 1935, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one tub (64 pounds) of butter at Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce on or about October 1, 1935, by Gorla Bros., from Roanoke, Va., and that it was adulterated in violation of the Food and Drugs Act.

It was alleged that the article, by reason of containing rodent hair, insects, and other extraneous matter, was adulterated within the provision of the act that an article of food shall be deemed to be adulterated if it consists in whole or in part of a filthy, decomposed, or putrid animal substance.

On January 14, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25639. Misbranding of butter. U. S. v. 46 Cases of Butter. Product released under bond to be relabeled. (F. & D. no. 36844. Sample no. 38717-B.)

This case involved a shipment of butter, samples of which were found to be short in weight.

On November 19, 1935, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 46 cases of butter at Salt Lake City, Utah, alleging that the article had been shipped in interstate commerce on or about November 11, 1935, by C. S. Wray, from Afton, Wyo., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "1 Lb. Net Monogram Creamery Butter The Cudahy Packing Co., Distributors General Offices, Chicago."

The article was alleged to be misbranded in that the statement on the label, "1 Lb. Net", was false and misleading and deceived and misled the purchaser, since the package contained less than 1 pound. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of its package, since the statement made was not correct.

On November 25, 1935, an order was entered permitting release of the product to the claimant, the Cudahy Packing Co., under bond conditioned that it be relabeled.

W. R. GREGG, *Acting Secretary of Agriculture.*

25640. Adulteration of butter. U. S. v. 20 Cases of Butter. Default decree of condemnation and destruction. (F. & D. no. 36845. Sample no. 41807-B.)

This case involved an interstate shipment of butter that contained mold, fragments of insects, mites, tinfoil, and nondescript dirt.

On November 15, 1935, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 20 cases of butter at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about November 9, 1935, by Armour Creameries (Fort Worth Poultry & Egg Co.), from Fort Worth, Tex., and that it was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Armour's Star Quality Cloverbloom Full Cream Butter One Pound Net Armour Creameries Chicago Distributors."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed animal substance.

On January 21, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25641. Adulteration of butter. U. S. v. 20 Cartons of Butter. Default decree of condemnation. Product denatured and sold. (F. & D. no. 36846. Sample no. 51780-B.)

This case involved a shipment of butter that contained filth.

On December 2, 1935, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 20 cartons of butter at Rochester, N. Y., alleging that the article had been shipped in interstate commerce on or about November 10, 1935, by Swift & Co., from Muskogee, Okla., and charging adulteration in violation of the Food and Drugs Act. A portion of the article was labeled: "Ohio State Brand Creamery Butter * * * Distributed by Swift & Company * * * Chicago." The remainder was labeled: "Old Homestead Creamery Butter [or "Cliffside Creamery Butter"] * * * Distributed by The Iowa Packing Company, Des Moines, Iowa."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, putrid, or decomposed animal substance.

On January 20, 1936, no claimant having appeared, judgment of condemnation and destruction was entered. On February 3, 1936, the decree was modified to permit the sale of the product to a tallow factory to be denatured under the supervision of the United States marshal.

W. R. GREGG, *Acting Secretary of Agriculture.*

25642. Adulteration of butter. U. S. v. 20 Cartons of Butter. Default decree of condemnation. Product denatured and sold. (F. & D. no. 36847. Sample no. 51781-B.)

This case involved a shipment of butter that contained filth.

On December 2, 1935, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 20 cartons of butter at Rochester, N. Y., alleging that the article had been shipped in interstate commerce on or about November 13, 1935, by the Jerpe Dairy Products Corporation, from Fayetteville, Ark., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Parchment wrapper) "Country Roll Creamery Butter Pasteurized Distributors Wilson & Co., General Offices, Chicago, Ill."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, putrid, or decomposed animal substance.

On January 20, 1936, no claimant having appeared, judgment of condemnation and destruction was ordered. On February 3, 1936, the decree was modified to permit the sale of the product to a tallow factory to be denatured under the supervision of the United States marshal.

W. R. GREGG, *Acting Secretary of Agriculture.*

25643. Adulteration and misbranding of butter. U. S. v. 15 Cases of Butter. Default decree of condemnation and destruction. (F. & D. no. 36848. Sample no. 52018-B.)

This case involved a shipment of butter that was deficient in milk fat and contained filth.

On November 27, 1935, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 cases of butter at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about November 23, 1935, by the Schenk division of the

Hygrade Food Products Corporation, from Wheeling, W. Va., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Gold Leaf Country Style Roll Butter Schenk Division Hygrade Food Products Corporation, Wheeling, West Virginia."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, putrid, or decomposed animal substance and in that a product containing less than 80 percent of milk fat had been substituted for butter.

Misbranding was alleged for the reason that the article was represented to be butter which was false and misleading, since it contained less than 80 percent of milk fat.

On January 7, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25644. Adulteration of pears. U. S. v. 59 Bushels of Pears. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36849. Sample no. 55128-B.)

These pears were contaminated with lead and arsenic.

On November 20, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 59 bushels of Bartlett pears at Chicago, Ill., alleging that the article had been shipped in interstate commerce, on September 6, 1935, by N. Buozenberg, from Bangor, Mich., to Chicago, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Baskets) "James Passailes, R-1, Benton Harbor, Mich."

Adulteration of the product was charged under the allegation that it contained added poisonous and deleterious ingredients, namely, arsenic and lead, in an amount which might have rendered it injurious to health.

On February 3, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25645. Adulteration of canned salmon. U. S. v. Columbia River Packers Association, Inc., Plea of guilty. Fine, \$100. (F. & D. no. 36969. Sample nos. 40633-B, 40634-B, 40636-B, 40638-B, 40646-B to 40649-B, incl.)

This case was based on a shipment of canned salmon samples of which were found to be putrid, tainted, or stale.

On February 20, 1936, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Columbia River Packers Association, Inc., Astoria, Oreg., alleging shipment by said company in violation of the Food and Drugs Act, on or about August 13, 1935, from Kupreanof Harbor, Alaska, into the State of Oregon of a quantity of canned salmon which was adulterated.

The article was alleged to be adulterated in that it consisted in part of a decomposed and putrid animal substance.

On April 1, 1936, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$100.

W. R. GREGG, *Acting Secretary of Agriculture.*

25646. Adulteration of canned shrimp. U. S. v. 47 Cases of Canned Shrimp. Default decree of condemnation and destruction. (F. & D. no. 37133. Sample no. 52135-B.)

This case involved an interstate shipment of canned shrimp, examination of which showed the presence of decomposed shrimp.

On January 29, 1936, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 47 cases of canned shrimp at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about October 23, 1935, by L. C. Mays [Co.], Inc., from New Orleans, La., and that it was adulterated in violation of the Food and Drugs Act. The article was labeled: "Doll Baby Brand Wet Park Shrimp 5-¾ Ozs. Packed for L. C. Mays Co., Inc., New Orleans, La. Best Quality."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On March 3, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25647. Adulteration and misbranding of canned salmon. U. S. v. 197 Cartons and 149 Cartons of Canned Salmon. Consent decree of condemnation. Product released under bond for segregation and destruction of decomposed portion. (F. & D. no. 37186. Sample nos. 56345-B, 56346-B.)

These cases involved interstate shipments of canned salmon which consisted in part of decomposed salmon and which was represented on the label to be of a natural red color and to contain oil; whereas it was coho salmon of a yellow color and contained little or no oil.

On February 13, 1936, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court two libels, one praying seizure and condemnation of 197 cartons, and the other, 149 cartons of canned salmon, at Akron, Ohio, alleging that the article had been shipped in interstate commerce, on or about October 3 and 25, 1935, by Whitney & Co., from Seattle, Wash., and that it was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Farbest Cohoe Contents One Pound Select Salmon Natural Red Color and Oil * * * Packed in U. S. A. for Farwest Fisheries Inc. Seattle."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

The article was alleged to be misbranded in that the statement, "Natural Red Color and Oil", and a representation of a red-fleshed cut of salmon, borne on the labels, were false and misleading and tended to deceive and mislead the purchaser when applied to coho salmon of a yellow color and with little or no oil.

On March 13, 1936, Whitney & Co., Seattle, Wash., claimants, having admitted the allegations of the libel and having consented to a decree, judgment of condemnation was entered, and it was ordered that the product be released under bond conditioned that the decomposed portion be segregated and destroyed under the supervision of the Department of Agriculture.

W. R. GREGG, *Acting Secretary of Agriculture.*

25648. Adulteration and misbranding of olive oil. U. S. v. 835 Cases and 965 Cans of Olive Oil. Consent decree of condemnation. Product released under bond for repacking and relabeling. (F. & D. nos. 37305, 37449, Sample nos. 55262-B, 55546-B, 55547-B, 55548-B, 55549-B, 55550-B, 57201-B, 57202-B, 57203-B.)

These cases involved interstate shipments of so-called olive oil that contained tea-seed oil, and the containers of a portion of which were short in volume.

On March 11 and 26, 1936, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court two libels, one praying seizure and condemnation of 835 cases, and the other, 965 cans of olive oil at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about December 18, 1935, and January 18, 1936, by A. J. Capone, Inc., from New York, N. Y., and that it was adulterated and misbranded in violation of the Food and Drugs Act. The article, contained in cans in one shipment and in cans and bottles of various sizes in the other shipment, was labeled in part: "Tivoli Brand Pure Imported Olive Oil * * * Distributed by Garofalo Bros. Co., Chicago, Ill."

The article in both shipments was alleged to be adulterated in that tea-seed oil had been mixed and packed with the article so as to reduce or lower its quality or strength, and in that tea-seed oil had been substituted in whole or in part for olive oil, which the article purported to be.

The article in the shipment of 965 cans was alleged to be misbranded in that the following statements, designs, and devices appearing upon the cans, were false and misleading and tended to deceive and mislead the purchaser when applied to a product containing tea-seed oil: (Main panels) "Tivoli * * * Pure Imported Olive Oil Tivoli * * * Pure Olio d'oliva Importato [design of olive trees and women harvesting green olives]"; (side panel) "Tivoli Brand Olive Oil is guaranteed to be one of the finest olive oils. The olive oil contained in this can is pressed from fresh picked ripe and selected olives. It is an absolutely pure product, highly recommended * * * L'Olio continuo in questa latta e estratto da olive fresche, mature, ed accuratamente scelte. Esso e garantito di essere uno dei migliori oli d'oliva, e un prodotto assolutamente puro, ed e altamente raccomandato per usi da tavola, e scopi medicinali"; (top) "Pure Imported Olive Oil." The article in the shipment of 835 cases was alleged to be misbranded in that the following statements, designs, and devices, appearing upon the labels, were false and misleading and tended to deceive and mislead the purchaser when applied to a product containing tea-

seed oil: (Cans of various sizes) "Pure Imported Olive Oil * * * Pure Olio D'Oliwa Importato [design of olive trees and people picking olives] * * * Olive Oil is guaranteed to be one of the finest olive oils. The olive oil contained in this can is pressed from fresh picked ripe and selected olives * * * L'Olio continuo in questa latta e estratto de olive fresche, mature, ed accuratamente scelte. Esso e garantito di essere uno migliori olii d'oliva, e un prodotto assolutamente puro, ed e altamente raccomandato per uside tavola, e scopi medicinali"; (bottles of various sizes) "Pure Olive Oil Imported"; (top of bottles of smallest size) "Pure Olive Oil"; and design of an olive branch. The article in the shipment of 835 cases was alleged to be misbranded further in that the statements, "One Gallon", "Half Gallon", and "One Pint", appearing on the labels of the cans of various sizes, respectively, were false and misleading and deceived and tended to deceive and mislead the purchaser when applied to a product the cans of which were short in volume. The article in both shipments was alleged to be misbranded further in that it was offered for sale under the distinctive name of another article, namely, olive oil.

On April 30, 1936, Garafola Bros. Co., claimant, having admitted the allegations of the libel and having consented to a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be repacked and relabeled.

W. R. GREGG, *Acting Secretary of Agriculture.*

25649. Adulteration and misbranding of olive oil. U. S. v. 376 Cans of Olive Oil, and two other actions. Default decrees of condemnation and destruction. (F. & D. nos. 37307, 37310, 37617. Sample nos. 44160-B, 44161-B, 44162-B, 56199-B, 67402-B, 67403-B, 67404-B, 67405-B.)

These cases involved interstate shipments of so-called olive oil which contained tea-seed oil, and the containers of which were short in volume.

On March 6, 1936, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 376 cans of so-called olive oil at Harrisburg, Pa.; on March 9, 1936, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 46 cans of so-called olive oil at Providence, R. I.; and on April 20, 1936, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 cans of so-called olive oil at Cleveland, Ohio. The libels alleged that the articles, respectively, had been shipped in interstate commerce on or about June 26 and August 21, 1935, and January 3 and 31, 1936, by the De Luca Olive Oil Co., Inc., from New York, N. Y., and that they were adulterated and misbranded in violation of the Food and Drugs Act. The articles contained in cans of various sizes were labeled in part: "Pure Olive Oil De Luca Brand The Best Imported from Italy * * * Guaranteed by De Luca Olive Oil Co., Inc., New York City."

The article in each of the three cases was alleged to be adulterated in that tea-seed oil had been mixed and packed with the article so as to reduce or lower its quality or strength, and in that tea-seed oil had been substituted in whole or in part for olive oil, which the article purported to be. The article in each of the three cases was alleged to be misbranded in that the following statements and designs appearing upon the labels were false and misleading and tended to deceive and mislead the purchaser when applied to a product containing the tea-seed oil: "Pure Olive Oil De Luca * * * The Best Quality Imported from Italy This Olive Oil is guaranteed to be absolutely pure under chemical analysis because it is pressed only from select ripe olives * * * Puro Olio D'Oliwa DeLuca * * * Qualita Sublime Importato dall Italia Questo Olio Di Oliva e garantito puro sotto qualsiasi analisi chimica perche ricavato soltanto da olive mature scelte e confezionato nelle migliori condizioni igieniche. [Design of olive branches]." The article in each of the three cases was alleged to be misbranded further in that it was offered for sale under the distinctive name of another article.

The article in the first case above referred to, contained in 1-gallon, half-gallon, and half-pint cases, the article in the second case, contained in 1-gallon cans and half-gallon cans, and the article in the third case, contained in 1-gallon cans, was alleged to be misbranded in that the statements, "One Full Gallon * * * Un Gallone Intero [or "Half Full Gallon * * * Mezzo Gallone Intero" or "One Full Half Pint * * * ½ Gallone Intero"]", appearing on

the labels in the first case, the statements, "One Full Gallon * * * Un Gallone Intero [or "Half Full Gallon * * * Mezzo Gallone Intero"]", appearing on the labels in the second case, and the statement "One Full Gallon", appearing on the label in the third case, were false and misleading and tended to deceive and mislead the purchaser when applied to a product the cans of which were short in volume. The article in the first case, contained in 1-gallon cans, half-gallon cans, half-pint cans, the article in the second case, contained in 1-gallon cans and half-gallon cans, and the article in the third case, contained in 1-gallon cans, was alleged to be misbranded further in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On March 30, May 12, and June 2, 1936, no claimant having appeared, judgments of condemnation were entered and it was ordered that the products be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25650. Adulteration of tomato puree. U. S. v. 378 Cases of Tomato Puree. Consent decree of condemnation, forfeiture, and destruction. (F. & D. no. 35285. Sample no. 29304-B.)

This article contained excessive mold.

On March 26, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 378 cases of tomato puree at Chicago, Ill., alleging that the article had been shipped in interstate commerce, on or about September 29, 1934, by Ladoga Canning Co., from Ladoga, Ind., to Chicago, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Can) "Savoy Quality Certified Tomato Puree Contents six lbs. eight oz. Distributors Steele-Wedeles Co., Chicago, Ill."

Adulteration of the article was charged under the allegation that it consisted wholly or in part of a decomposed vegetable substance.

The Steele-Wedeles Co., a corporation, appeared specially as claimant for the product in support of a motion to quash the writ of attachment. Among the assigned grounds of the motion was the one that the issuance of the writ of attachment and the seizure thereunder were violative of the Fourth Amendment of the Constitution, in that the warrant for the seizure issued, and in that the seizure was made, without a showing of probable cause, supported by oath or affirmation particularly describing the place to be searched and the things to be seized. On September 16, 1935, the court overruled the motion without opinion.

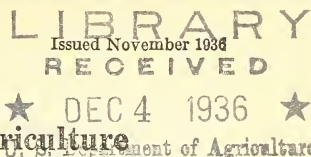
On March 6, 1936, the claimant consenting, a decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

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United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

25651-25800

[Approved by the Acting Secretary of Agriculture, Washington, D. C., October 2, 1936]

25651. Alleged adulteration of apples. U. S. v. W. E. Roche Fruit Co., a corporation. Plea of not guilty. Defendant found not guilty. (F. & D. no. 36093. Sample no. 1388-B.)

Examination of the apples involved in this case showed the alleged presence of lead and arsenic in amounts that might have rendered them injurious to health.

On January 3, 1936, the United States attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the W. E. Roche Fruit Co., a corporation, Yakima, Wash., alleging that on or about May 20, 1935, the defendant company shipped from the State of Washington into the State of California a quantity of apples and that the apples were adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Roche Fruit & Produce Co., Orchard run, 288."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, namely, arsenic and lead, in an amount that might have rendered said article injurious to health.

On May 8, 1936, a plea of not guilty was entered on behalf of the defendant company and a judgment of acquittal was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25652. Adulteration of frozen eggs. U. S. v. Parsons Poultry & Egg Co., a corporation. Plea of guilty. Fine, \$50 and costs. (F. & D. no. 36094. Sample no. 30572-B.)

This case involved a shipment of frozen eggs that consisted in part of putrid, sour, and musty eggs.

On January 15, 1936, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Parsons Poultry & Egg Co., a corporation, Parsons, Kans., alleging that on or about July 1, 1935, the defendant company shipped from the State of Kansas into the State of New York, a quantity of frozen eggs and that the article was adulterated in violation of the Food and Drugs Act. The article was unlabeled and unmarked, except Merchants Refrigerating Co.'s number on bottom of some cans of frozen eggs, which were described on freight bill as "144/30 Cans Frozen Eggs."

The article was alleged to be adulterated in that it consisted in part of a decomposed and putrid animal substance.

On May 4, 1936, a plea of guilty was entered on behalf of the defendant, and the court imposed a fine of \$50 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25653. Adulteration and misbranding of whisky. U. S. v. 45 Cases and 5 Cases of "Shervood Bottled in Bond." Default decree of condemnation. Product forfeited to the United States. (F. & D. no. 36108. Sample no. 30951-B.)

This case involved the interstate shipment of an alcoholic distillate that was an imitation of whisky.

On August 9, 1935, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a

libel praying seizure and condemnation of 45 cases, more or less, each containing 12 quart bottles, and 5 cases, more or less, each containing 24 pint bottles of a product, labeled in part "Sherwood Bottled in Bond", at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about May 13, 1935, by the Sherwood Distilling & Distributing Co., from Baltimore, Md., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it was mixed with and colored by charred wood in a manner whereby inferiority was concealed, and in the case of food, in that an alcoholic distillate stored in charred wood but not obtained from grain had been substituted for whisky.

The article was alleged to be misbranded in that, in the case of food, the statement on the label "Sherwood * * * Bottled in Bond", was false and misleading and tended to deceive and mislead the purchaser, since it created the impression that the product was whisky; whereas it was not.

On November 23, 1935, no claimant having appeared, a decree of condemnation and forfeiture was entered and it was ordered that the product be turned over to the district supervisor of the Alcohol Tax Unit of the Treasury Department for disposition.

W. R. GREGG, *Acting Secretary of Agriculture.*

25654. Adulteration of tomato catsup. U. S. v. 398 Cases of Tomato Catsup. Consent decree of condemnation providing for release of product under bond for segregation and destruction of the adulterated catsup. (F. & D. no. 36154. Sample nos. 26847-B, 43168-B.)

This article consisted in whole or in part of a filthy substance.

On or about August 26, 1935, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 398 cases of tomato catsup at Jacksonville, Fla., alleging that the article had been shipped in interstate commerce, on or about June 8, 1935, by Stokely Bros. & Co., Inc., from Oakland, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Bottle) "Ruby Brand Tomato Catsup * * * Fame Canning Co., Inc. General Offices Indianapolis, Ind."

Adulteration of the article was charged under the allegation that it consisted in whole or in part of a filthy vegetable substance.

On February 26, 1936, the product having been claimed by Stokely Bros. & Co., Inc., a consent decree of condemnation and forfeiture was entered, providing for release of the foods to the claimant for segregation and destruction of the adulterated catsup upon furnishing of bond in the sum of \$500.

W. R. GREGG, *Acting Secretary of Agriculture.*

25655. Adulteration of tomato catsup. U. S. v. 48 Cases of Tomato Catsup, and other actions. Decrees of condemnation and destruction. (F. & D. nos. 36140, 36251, 36269. Sample nos. 26384-B, 26734-B, 26900-B.)

These cases involved tomato catsup that contained filth resulting from worm infestation.

On August 20, 1935, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 48 cases of tomato catsup at Brooklyn, N. Y. On August 31 and September 3, 1935, libels were filed against 270 cases of the product at Portland, Oreg., and 50 cases at Walla Walla, Wash. The libels alleged that a portion of the article had been shipped by Libby, McNeill & Libby on or about November 3, 1934, from Blue Island, Ill., into the State of Oregon, and on or about August 1, 1935, from San Francisco, Calif., into the State of New York; and that the remainder had been shipped on or about August 22, 1935, by the Western States Grocery Co., from San Francisco, Calif., into the State of Washington, and that it was adulterated in violation of the Food and Drugs Act. A part of the article was canned catsup labeled: "Silver-Dale Brand Tomato Catchup * * * Packed at Canneries located in California for Emery Food Co. Chicago, U. S. A." The remainder was bottled catsup labeled: "Libby Tomato Catsup * * * Packed by Libby, McNeill & Libby Chicago."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On January 17, 1936, a claim for the lot seized at Brooklyn, N. Y., having been entered and claimant having stipulated for costs, but subsequently having advised the United States attorney that the action would not be contested, judgment of condemnation was entered and it was ordered that the product be

destroyed, and that costs be assessed against the claimant. On December 12, 1935 and January 24, 1936, Libby, McNeill & Libby having withdrawn its claim for the lot seized at Walla Walla, Wash., and no claimant having appeared for the lot seized at Portland, Oreg., default decrees of condemnation were entered and the lots were ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25656. Adulteration and misbranding of whisky. U. S. v. 6 Cases of "Sherwood Bottled in Bond", et al. Default decree of condemnation. Product forfeited to United States. (F. & D. no. 36210. Sample no. 30149-B.)

This case involved the interstate shipment of an alcoholic distillate that was an imitation of whisky.

On August 26, 1935, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 6 cases of a product labeled in part, "Sherwood Bottled in Bond"; 9 quart bottles, more or less; of same, 1 case, more or less, containing 24 pint bottles; and 4 pint bottles, more or less, of the same product, at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about May 23, 1935, by the Sherwood Distilling & Distributing Co., from Baltimore, Md., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that, in the case of food, it was mixed with and colored by charred wood in a manner whereby inferiority was concealed; and in that an alcoholic distillate stored in charred wood but not obtained from grain had been substituted for whisky.

The article was alleged to be misbranded, in the case of food, in that the statement on the label, "Sherwood * * * Bottled in Bond", was false and misleading and tended to deceive and mislead the purchaser, since it created the impression that the product was whisky; whereas it was not.

On February 17, 1936, no claimant having appeared, a decree of condemnation and forfeiture was entered and it was ordered that the product be turned over to the district supervisor of the Alcohol Tax Unit of the Treasury Department for disposition.

W. R. GREGG, *Acting Secretary of Agriculture.*

25657. Adulteration of tomato paste. U. S. v. 303 Cases and 398 Cases of Tomato Paste. Default decree of condemnation and destruction. (F. & D. no. 36211. Sample nos. 28409-B, 28410-B.)

This case involved a shipment of canned tomato paste that contained worm debris, i. e., small pieces of worms.

On August 23, 1935, the United States attorney for the Southern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel, and subsequently an amended libel, praying seizure and condemnation of 701 cases of tomato paste at Houston, Tex., alleging that the article had been shipped in interstate commerce on or about May 29, 1935, by the Uddo-Taormina Corporation, from Los Angeles, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Tomato Paste Giardiniera Brand [or "Flag Brand"] * * * Packed by La Sierra Heights Canning Company, Los Angeles, California."

The amended libel charged that the article was adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On March 31, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25658. Adulteration of tomato paste. U. S. v. 1,000 Cartons and 494 Cases of Tomato Paste. Default decrees of condemnation and destruction. (F. & D. nos. 36267, 36281. Sample nos. 16051-B, 38820-B.)

Samples of the tomato paste involved in these cases were found to contain worm debris.

On September 3 and September 7, 1935, the United States attorney for the Eastern District of Louisiana, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,000 cartons and 494 cases of tomato paste, respectively, at New Orleans, La., alleging that the article had been shipped on or about May 22 and August 16, 1935, by the Anaheim Canning Co., from Anaheim, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Kitty Brand

Tomato Paste Color Added Net Contents Six Oz Packed By Glorioso Canning Co. Anaheim Cal."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On June 8, 1936, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25659. Adulteration and misbranding of butter. U. S. v. 15 Cartons of Butter. Default decree of condemnation and forfeiture providing for sale for rendering purposes. (F. & D. no. 36295. Sample no. 31052-B.)

This product contained less than 80 percent by weight of milk fat, but was sold as and for butter.

On August 10, 1935, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 cartons of butter at Scranton, Pa., alleging that the article had been shipped in interstate commerce, on or about July 3, 1935, by the Borden Produce Co., Inc., Kansas City, Mo., therefrom to Scranton, Pa., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Package) "Farmfield Solids"; (tag) "Cold Stg. PA.-237 Rec'd Jul 8 1935 8106"; (retail carton) "One Pound Net Weight Farmfield * * * Fine Creamery Butter"; (parchment paper wrapped about butter) "Farmfield Fine Creamery Butter One Pound Net."

Adulteration of the product was charged under the allegation that a product containing less than 80 percent by weight of milk fat had been substituted for butter.

Misbranding of the article was charged under the allegation that the label bore the statement, to wit, "butter"; that the article contained less than 80 percent by weight of milk fat; and that the aforesaid statement was false and misleading.

On January 16, 1936, no claimant having appeared, a default decree of condemnation and forfeiture was entered, providing for sale at public auction for rendering purposes.

W. R. GREGG, *Acting Secretary of Agriculture.*

25660. Adulteration of apples. U. S. v. 290 Bushels of Apples. Consent decree of condemnation. Product released under bond. (F. & D. no. 36303. Sample no. 23333-B.)

Examination of the apples involved in this case showed the presence of lead and arsenic in amounts that might have rendered the article injurious to health.

On July 11, 1935, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 290 bushels of Oldenburg (Duchess) apples at Minneapolis, Minn., alleging that the article had been shipped on or about July 6, 1935, in interstate commerce by the F. H. Simpson Co., from Ozark, Ill., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or other deleterious ingredients, namely, lead and arsenic, which might have rendered it injurious to health.

On July 15, 1935, Phil Malat, claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the court ordered that the article be released to claimant under bond conditioned that the article be rewashed and reconditioned under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

25661. Adulteration of tomato sauce. U. S. v. 145 Cases of Tomato Sauce, and other actions. Default decrees of condemnation and destruction. (F. & D. nos. 36311, 36690, 37369. Sample nos. 16313-B, 32652-B, 52347-B.)

These cases involved canned tomato sauce, samples of which were found to contain rodent hairs and filth resulting from worm and insect infestation.

On or about September 9, December 21, 1935, and March 14, 1936, the United States attorneys for the Eastern District of Missouri and the District of Arizona, acting upon reports by the Secretary of Agriculture, filed in the respective district courts libels praying seizure and condemnation of 164 cases and 48 cans of tomato sauce at St. Louis, Mo., and 7 cases of the product at Flagstaff,

Ariz., alleging that the article had been shipped in interstate commerce by the Orange County Cannery, Inc., from Fullerton, Calif., in various shipments on or about July 6 and October 5, 1935, and January 18, 1936, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Val Vita Brand Spanish Style tomato Sauce * * * Packed by Orange County Cannery, Inc. Fullerton California."

A portion of the article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance. The remainder was alleged to be adulterated in that it contained worm and insect debris.

On October 14, 1935, March 13, and April 11, 1936, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25662. Adulteration and misbranding of tomato concentrate. U. S. v. 229 Cases of Marin Tomato Concentrate. Default decree of condemnation and destruction. (F. & D. no. 36312. Sample no. 37681-B.)

This case involved a shipment of canned tomato concentrate that was adulterated because of the presence of filth resulting from worm infestation and which was also misbranded because it was short in weight.

On September 10, 1935, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 229 cases of tomato concentrate at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about February 9 and March 2, 1935, by Schwabacher Bros. Co., from San Francisco, Calif., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Marin Tomato Concentrate Contents 7 Lb. 4 Oz. Packed by Jos. Pearce Canning Co. Decoto Calif."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

Misbranding was alleged for the reason that the statement "7 Lb. 4 Oz." was false and misleading and tended to deceive and mislead the purchaser, and for the reason that it was food in package form and the quantity of the contents was not plainly or conspicuously marked on the outside of the package, since the statement made was incorrect.

On November 5, 1935, no claimant having appeared, judgment was entered finding the product adulterated as charged in the libel, and misbranded in that the statement on the label, "7 Lb. 4 Oz.", was false, misleading, and deceptive, and it was ordered that the product be condemned and destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25663. Adulteration and misbranding of butter. U. S. v. 57 Cartons of Butter, and other actions. Consent decrees of condemnation. Product released under bond to be denatured. (F. & D. nos. 36391, 36392, 36393, 36507. Sample nos. 31089-B 31090-B, 31091-B, 42514-B.)

These cases involved interstate shipments of butter, samples of which were found to be deficient in milk fat and to contain mold.

On August 31 and September 16, 1935, the United States attorney for the Middle District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 169 cartons and 25 tubs of butter at Scranton, Pa., alleging that the article had been shipped in interstate commerce on or about June 25, 1935, by the Paul A. Schulze Co., from St. Louis, Mo., and charging adulteration and misbranding of portions of the article and adulteration of the remainder in violation of the Food and Drugs Act. The lots shipped in cartons consisted of print and country roll butter labeled in part: "Clover Springs * * * Roll Butter * * * Distributed by Paul A. Schulze Co., St. Louis, Mo."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance, and in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

Misbranding was alleged with respect to the print and country roll butter for the reason that it was labeled "Butter", which was false and misleading, since it contained less than 80 percent of milk fat.

On April 21, 1936, the Paul A. Schulze Co., claimant, having admitted the allegations of the libels and having consented to the entry of decrees, judgments

of condemnation were entered, and it was ordered that the product be released under bond, conditioned that it be denatured so that it could not be used in any manner for human consumption.

W. R. GREGG, *Acting Secretary of Agriculture.*

25664. Adulteration of crab meat. U. S. v. 18 Barrels of Crab Meat. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36414. Sample no. 35975-B.)

This product contained filth.

On August 23, 1935, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of the said District a libel praying seizure and condemnation of 18 barrels of crab meat in the District of Columbia, alleging that the article had been shipped in interstate commerce on or about August 19, 1935, by Reuther's Sea Food Co., Inc., New Orleans, La., and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the article was charged under the allegation that it consisted wholly or in part of a filthy animal substance.

On January 23, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25665. Adulteration of sardines. U. S. v. 24 Cases of Sardines. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36446. Sample no. 26739-B.)

Decomposed sardines were present in this product.

On October 7, 1935, the United States attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 24 cases of sardines at Albany, N. Y., alleging that the article had been shipped in interstate commerce, on or about August 27, 1935, by Howard Terminal, Oakland, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Can) "Monte-Rey-Maid Grilled Sardines. * * * Packed by Hovden Food Products Corporation Monterey, Calif."

Adulteration of the article was charged under the allegation that it consisted in whole or in part of a decomposed or putrid animal substance.

On January 7, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25666. Adulteration and misbranding of 5 Minute Jelly and 5 Minit-Jelle. U. S. v. 69 Cases of 5 Minute Jelly, et al. Default decrees of condemnation and destruction. (F. & D. nos. 36453, 36460. Sample nos. 15594-B, 33443-B.)

These cases involved a product consisting in large part of dextrose and containing citric acid, pectin, artificial color, and fruit flavor, which was represented to be a concentrate or base for making true jelly.

On October 3 and October 7, 1935, the United States attorneys for the Eastern District of Wisconsin, and the Eastern District of Missouri, acting upon reports by the Secretary of Agriculture, filed in the respective district courts libels praying seizure and condemnation of 69 cases of 5 Minute Jelly at Waukesha, Wis., and 65 cases of 5 Minute Jelly and 5 Minit-Jelle at St. Louis, Mo., alleging that the article had been shipped in interstate commerce in part on or about July 8, 1935, by Winesyrup Co., Inc., and in part on or about September 11, 1935, by 5-Minit-Jelle Co., from Los Angeles, Calif., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "5 Minute Jelly [or "5 Minit-Jelle"] * * * Minute Maid Products Co. * * * Los Angeles, California."

The article was alleged to be adulterated in that a mixture of dextrose, citric acid, pectin, artificial color, and fruit flavor had been substituted for a jelly base or jelly concentrate, which the article purported to be; and for the further reason that it was mixed and colored whereby inferiority was concealed.

Misbranding was alleged for the reason that the following statements in the labeling were false and misleading and tended to deceive and mislead the purchaser: (5 Minute Jelly) "5 Minute Jelly This Package Makes 5 Glasses of Real Home Made Jelly"; "No Fruit Juice Needed"; "True Fruit Flavor Pure

Fruit Pectin, Fruit Acid and U. S. Certified Color"; "Made and Guaranteed to Comply with All Pure Food Regulations"; (5 Minit-Jelle) "Jelle * * * Real Home Type Jell * * * No fruit juice needed * * * Jelly is Made and Guaranteed to Comply with Pure Food Regulations"; (circular) "Jelly * * * Real Home Type Jelly * * * No fruit juice needed * * * Real Home Made True Fruit Jelly * * * Complying with all U. S. Pure Food Laws * * * Jelly—No fruit or juices are required * * * Grape Raspberry Currant Loganberry * * * Real Home Type Jelly." Misbranding was alleged for the further reason that the article was an imitation of and was offered for sale under the distinctive name of another article, namely, 5 Minute Jelly, i. e., a base or concentrate for making true jelly.

On November 4, 1935, no claim having been entered for the goods seized at St. Louis, Mo., judgment of condemnation was entered and the product was ordered destroyed. On December 27, 1935, 5 Minit Jelle Ltd., having withdrawn its claim for the lot seized at Waukesha, Wis., judgment was entered condemning the product and it was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25667. Adulteration and misbranding of honey. U. S. v. 7 Cases, et al., of Honey. Default decrees of condemnation and destruction. (F. & D. nos. 36461, 36473. Sample nos. 42775-B to 42779-B, incl., 42787-B to 42791-B, incl.)

The product in these cases consisted of a mixture of honey and commercial invert sugar and was sold as pure honey. Most of the lots were found to be short in weight.

On October 7 and October 14, 1935, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 74 cases and 350 dozen jars of honey at Newark, N. J., alleging that the article had been shipped in interstate commerce, on or about September 14, October 2, and October 3, 1935, by the Silver Label Products Co., from Brooklyn, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Jar) "The Better Grade Uco Pure Honey * * * Distributed by Uco Food Corp. Newark, N. J." The jars were of various sizes labeled with respect to the weight of their contents: "Contents 8 Oz.", "Contents 14 Ozs.", "Contents 16 Ozs.", "Contents 32 Ozs.", or "Contents 5 Oz."

Adulteration of the article was charged under the allegation that honey containing commercial invert sugar had been substituted for pure honey which it purported to be.

Misbranding was alleged in that the statement "Pure Honey", borne on the label was false and misleading and tended to deceive and mislead the purchaser when applied to a product containing commercial invert sugar; and in that the article was offered for sale under the distinctive name of another article, "Pure Honey." Misbranding was alleged with respect to certain lots of the product for the further reason that the statements, "Contents 32 Ozs.", "Contents 16 Ozs.", "Contents 14 Oz.", and "Contents 8 Ozs.", were false and misleading and tended to deceive and mislead the purchaser when applied to a product which was short in weight, and for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the statement made was not correct.

On January 16 and February 19, 1936, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25668. Adulteration of apples. U. S. v. 25 Bushels of Jonathan Apples. Default decree of condemnation and destruction. (F. & D. no. 36493. Sample no. 32698-B.)

This case involved an interstate shipment of apples that contained a compound of arsenic and lead.

On September 7, 1935, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 25 bushels of Jonathan apples at St. John, Kans., alleging that said article had been shipped in interstate com-

merce on or about September 3, 1935, from Springdale, Ark., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained an added poisonous ingredient, to wit, a compound of arsenic and lead, which might have rendered it harmful to health.

On February 21, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25669. Adulteration of apples. U. S. v. 50 Bushels of Apples. Default decree of destruction. (F. & D. no. 36497. Sample no. 33770-B.)

This case involved apples that were contaminated with arsenic and lead.

On October 2, 1935, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 50 bushels of apples at Middletown, Ohio, consigned on September 30, 1935, alleging that the article had been shipped in interstate commerce by Lloyd Bryant, from Niles, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On October 9, 1935, no claimant having appeared, judgment was entered ordering that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25670. Adulteration of butter. U. S. v. 29 Tubs of Butter. Consent decree of condemnation. Product released under bond to be reworked. (F. & D. no. 36508. Sample no. 41040-B.)

This case involved an interstate shipment of butter that was deficient in milk fat.

On September 9, 1935, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 29 tubs of butter at St. Paul, Minn., alleging that the article had been shipped in interstate commerce on or about September 4, 1935, by the R. E. Cobb Co., from Valley City, N. Dak., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "63 pounds net."

The article was alleged to be adulterated in that a substance deficient in milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat.

On December 28, 1935, the court found the article to be adulterated as charged and ordered it released to claimant, R. E. Cobb Co., under bond to be reworked under supervision of the Food and Drug Administration.

W. R. GREGG, *Acting Secretary of Agriculture.*

25671. Adulteration of apples. U. S. v. 50 Bushels of Apples. Judgment of condemnation. Product released under bond, conditioned that deleterious substances be removed. (F. & D. no. 36517. Sample no. 32570-B.)

This case involved apples that were contaminated with arsenic and lead.

On or about September 12, 1935, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 50 bushels of apples at Hutchinson, Kans., alleging that the article had been shipped in interstate commerce on or about September 5, 1935, by Sam De Luca, from Rogers, Ark., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous ingredients, arsenic and lead, which might have rendered it injurious to health.

On April 22, 1936, the Grovier Starr Produce Co., of Hutchinson, Kans., having appeared as claimant, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be washed in order to remove the deleterious substances.

W. R. GREGG, *Acting Secretary of Agriculture.*

25672. Misbranding of canned tuna. U. S. v. 420 Cases of Canned Tuna. Consent decree of condemnation and forfeiture providing for release of the product under bond for relabeling. (F. & D. no. 36521. Sample nos. 42151-B, 42185-B, 50237-B.)

The label of this article bore an inaccurate statement as to weight.

On October 18, 1935, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 420 cases of canned tuna at New York, N. Y., alleging that the article had been shipped in interstate commerce, on or about August 12, 1935, by the Van Camp Sea Food Co., from Terminal Island, Calif., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Can) "The Famous Royal Scarlet Brand Light Meat Tuna Fish Packed in Oil Contents 7 oz. avoirdupois 198 grams R. C. Williams & Co. Inc. Distributors New York U. S. A."

Misbranding of the product was charged (a) under the allegation that the label bore the statement, to wit, "Contents 7 oz. avoirdupois 198 grams"; that the said statement was false and misleading and tended to deceive and mislead the purchaser; (b) under the allegation that the product was in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the statement made was incorrect.

On January 31, 1936, the product having been claimed by R. C. Williams & Co., Inc., a consent decree of condemnation and forfeiture was entered, providing for release of the product to the claimant for relabeling upon furnishing of bond in the sum of \$1,500.

W. R. GREGG, *Acting Secretary of Agriculture.*

25673. Adulteration of canned peas. U. S. v. 412 Cases of Canned Peas, and other actions. Decrees of condemnation. Portion of product released under bond. Remainder destroyed. (F. & D. nos. 36531, 36532, 36858. Sample nos. 26942-B, 26952-B, 34879-B.)

These cases involved canned peas samples of which were found to be infested with weevils or worms.

On October 19, October 21, and December 20, 1935, the United States attorneys for the Northern District of California and the Southern District of California, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 694 cases of canned peas in various lots at San Francisco, Sacramento, and Los Angeles, Calif., alleging that the article had been shipped in interstate commerce between the dates of July 19 and August 20, 1935, by Libby, McNeill & Libby, in part from Portland, Oreg., and in part from Walla Walla, Wash., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Libby's Green Sweet and Tender Jumbo Peas, Libby, McNeill and Libby, Chicago."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

Libby, McNeill & Libby appeared as claimant. On November 5 and November 12, 1935, the claimant having admitted the allegations with respect to the lots libeled at San Francisco and Sacramento and having consented to the entry of decrees, judgments of condemnation were entered and it was ordered that the lots might be taken down under bond conditioned that those portions approved by this Department as fit for food be released. On February 21, 1936, the claim having been withdrawn for the lot seized at Los Angeles, judgment of condemnation was entered and the goods were ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25674. Adulteration and misbranding of strawberry, raspberry, cherry, pineapple, and blackberry jam. U. S. v. 15 Cases of Alleged Strawberry Jam, et al. Consent decree of condemnation. Products released under bond to be relabeled. (F. & D. no. 36535. Sample nos. 43016-B to 43019-B, incl., 43023-B.)

This case involved an interstate shipment of alleged jams which were deficient in fruit and contained added pectin and excessive moisture.

On October 23, 1935, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 cases of alleged strawberry, raspberry, cherry, pineapple, and blackberry jams at Hartford, Conn., alleging that said articles had been shipped in interstate commerce on or about September 20, 1935, by Fresh Grown Preserve Corporation, from Brooklyn, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was variously labeled in part: "Milrey Brand Pure Strawberry [or "Raspberry"] Jam, Milrey Packing Co. * * * N. Y. C."; "Nature's Own Pure Cherry [or "Imported Pineapple" or "Blackberry"] Jam, Fresh Grown Preserve Corp., Brooklyn, N. Y."

The articles were alleged to be adulterated in that jellified mixtures of water, sugar, and pectin had been mixed and packed with the articles so as to reduce, lower, and affect their quality; in that mixtures of fruit, sugar, water, and pectin containing less than the normal proportion of fruit had been substituted for jams; and in that they had been mixed in a manner whereby inferiority was concealed.

Misbranding was alleged for the reason that the statements on the labels "Pure Strawberry Jam", or "Pure Raspberry Jam", "Pure Cherry Jam", "Pure Pineapple Jam", or "Pure Blackberry Jam", were false and misleading and tended to deceive and mislead the purchaser when applied to products resembling jams, but which contained less than the normal fruit content of jam; and for the further reason that they were imitations of and offered for sale under the distinctive names of other articles.

On June 11, 1936, the Fresh Grown Preserve Corporation, claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the products be released under bond conditioned that they be transferred to properly labeled containers.

W. R. GREGG, *Acting Secretary of Agriculture.*

25675. Adulteration of tomato catsup. U. S. v. 84 Cases of Tomato Catsup. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36539. Sample no. 45164-B.)

This product contained excessive mold.

On October 23, 1935, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 84 cases of tomato catsup at Cincinnati, Ohio, consigned on or about September 14, 1935, alleging that the article had been shipped in interstate commerce by the Arthur Baehr Co., Cincinnati, Ohio, from Windfall, Ind., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Bottle) "Heart of Indiana Brand Tomato Catsup, Distributed by John S. Mitchell, Inc., Windfall, Ind."

Adulteration of the product was charged under the allegation that it consisted in whole or in part of a decomposed vegetable substance.

On December 17, 1935, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25676. Misbranding of wine. U. S. v. 84 Bottles of Wine. Default decree of condemnation and forfeiture, providing for delivery of the product to the district supervisor of the Alcohol Tax Unit of the Treasury Department. (F. & D. no. 36546. Sample no. 30993-B.)

This article was sold as wine, produced in Italy and containing 14 percent of alcohol, but in fact had been made in this country and contained less than 14 percent of alcohol.

On October 31, 1935, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 84 bottles of wine at Englewood Cliffs, N. J., alleging that the article had been shipped in interstate commerce on or about September 27, 1935, by John Aquino Sons, Inc., from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Bottle) "Alcohol by Volume Not Over 14% Vulcan Red Cragnano Product of Italy * * * John Aquino Sons Inc. Importers New York, N. Y. Naples, Italy."

Misbranding of the article was charged (a) under the allegation that the statements borne on the labels, to wit, "Alcohol by Volume Not Over 14%" and "Product of Italy", were false and misleading and tended to deceive and mislead the purchaser; and (b) under the allegation that the article purported to be imported Italian wine, whereas it was made in the United States.

On December 20, 1935, no claimant having appeared, a default decree of condemnation and forfeiture was entered providing for delivery of the product to the Treasury Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

25677. Misbranding of canned peas. U. S. v. 700 Cases of Canned Peas. Claimant's motion for release denied. Judgment of condemnation. Product ordered sold. (F. & D. no. 36548. Sample no. 45489-B.)

This case involved a shipment of canned peas that fell below the standard established by the Secretary of Agriculture and were not labeled to indicate that they were substandard.

On or about November 2, 1935, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 700 cases of canned peas at Atlanta, Ga., alleging that the article had been shipped in interstate commerce on or about June 25, 1935, by the Eastern Shore Canning Co., from Machipongo, Va., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Escco Brand Early June Peas * * * Packed by The Eastern Shore Canning Co., Machipongo, Va."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, because the peas were not immature since more than 25 percent were ruptured, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On July 29, 1936, the case having come on for hearing on the claimant's motion for redelivery for relabeling, and said motion having been denied for cause, judgment of condemnation and forfeiture was entered and it was ordered that the product be relabeled and sold by the United States marshal and the proceeds paid into the Treasury of the United States.

W. R. GREGG, *Acting Secretary of Agriculture.*

25678. Adulteration of butter. U. S. v. 1 Tub of Butter. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36550. Sample no. 39876-B.)

This product contained mold, human hairs, cow hair, and nondescript dirt.

On October 11, 1935, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one tub of butter at Baltimore, Md., alleging that the article had been shipped in interstate commerce, on or about October 8, 1935, from Potomac View, Va., to Baltimore, Md., and charging adulteration in violation of the Food and Drugs Act. The shipment was made by E. Fallin Bros., Potomac View, Va.

Adulteration of the product was charged under the allegation that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On November 19, 1935, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25679. Adulteration of butter. U. S. v. 1 Can of Butter. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36553. Sample no. 39884-B.)

This product contained maggots, rodent hairs, insect, and nondescript dirt.

On October 16, 1935, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one can of butter at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about October 14, 1935, from Gretna, Va., and charging adulteration in violation of the Food and Drugs Act. Shipment was made by W. B. Hunt, Gretna, Va. The article was labeled in part: (Shipping tag) "W. B. Hunt Gretna Va."

Adulteration of the product was charged under the allegation that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On November 21, 1935, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25680. Adulteration of butter. U. S. v. 1 Tub of Butter. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36554. Sample no. 39886-B.)

This product contained fragments of insects, a housefly, human hairs, cow hair, rodent hair, mold, and nondescript dirt.

On October 17, 1935, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one tub of butter at Baltimore, Md., alleging that the article had been shipped in interstate commerce, on or about October 14, 1935, from Doyleville, Va., and charging adulteration in violation of the Food and Drugs Act. The shipment was made by P. E. Blackwell & Son, Doyleville, Va. The product was labeled in part: (Tub) "Butter"; (tag on tub) "Shipped by P. E. Blackwell & Son P. O. Address Doyleville—Virginia."

Adulteration of the product was charged under the allegation that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On November 21, 1935, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25681. Adulteration of butter. U. S. v. 1 Tub of Butter. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36555. Sample no. 39887-B.)

This product contained maggots, mold, rodent hairs, and nondescript dirt.

On October 17, 1935, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one tub of butter at Baltimore, Md., alleging that the article had been shipped in interstate commerce, on or about October 14, 1935, from Mechum River, Va., and charging adulteration in violation of the Food and Drugs Act. The shipment was made by Mitchell Mdse. Co., Mechum River, Va. The article was labeled in part: (Tag on tub) "Shipped By Mitchell Mdse Co Mechum River Va."

Adulteration of the article was charged under the allegation that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On November 21, 1935, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25682. Adulteration of apples. U. S. v. 365 Bushels of Apples. Consent decree of condemnation. Product released under bond for removal of deleterious substances. (F. & D. no. 36573. Sample no. 45065-B.)

This case involved apples that were contaminated with lead and arsenic spray residue.

On October 1, 1935, the United States attorney for the Southern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 365 bushels of apples at Huntington, W. Va., alleging that the article had been shipped in interstate commerce between the dates of September 17 and September 20, 1935, by H. A. Childres, from Proctorville, Ohio, and charging adulteration in violation of the Food and Drugs Act.

The apples were alleged to be adulterated in that they contained deleterious ingredients, arsenic and lead, which might have rendered them dangerous to health.

On November 5, 1935, H. A. Childres, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the apples be released under bond, conditioned that they be washed in order to remove the deleterious substances.

W. R. GREGG, *Acting Secretary of Agriculture.*

25683. Adulteration of apples. U. S. v. 400 Bushels of Apples. Consent decree of condemnation. Product released under bond, conditioned that deleterious substances be removed. (F. & D. no. 36574. Sample no. 45068-B.)

This case involved a shipment of apples that were contaminated with lead and arsenic spray residue.

On October 1, 1935, the United States attorney for the Southern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 400 bushels of apples at Huntington, W. Va., alleging that the article had been shipped in inter-

state commerce on or about September 18 and September 21, 1935, by C. W. Forgey, from Proctorville, Ohio, and charging adulteration in violation of the Food and Drugs Act.

The apples were alleged to be adulterated in that they contained added deleterious ingredients, lead and arsenic, which might have rendered them dangerous to health.

On November 5, 1935, C. W. Forgey, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the apples be released under bond, conditioned that they be cleaned in order to remove the deleterious substances.

W. R. GREGG, *Acting Secretary of Agriculture.*

25684. Adulteration and misbranding of Winesyrup. U. S. v. 268 Cartons of Winesyrup. Default decree of condemnation and destruction. (F. & D. no. 36598. Sample no. 33444-B.)

This case involved a product sold as a base for making various types of wine. Examination showed that it contained added glucose, that certain varieties contained added color, and that when used as directed it would produce an imitation wine.

On November 4, 1935, the United States attorney for the Eastern District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 268 cartons of Winesyrup at Waukesha, Wis., alleging that the article had been shipped in interstate commerce on or about July 8, 1935, by Winesyrup, Ltd., from Los Angeles, Calif., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Winesyrup Red-Sweet Port Flavor-Type [or "Red-Sweet Concord", "Amber-Sweet Muscatel", "Amber-Sweet Sherry", "Sweet Orange", "Amber-Dry Sauterne", or "Red-Dry Burgundy"] * * * A Pure Food Product—Mfd. Only by Winesyrup, Ltd. Los Angeles, California."

The article was alleged to be adulterated in that a substance, glucose—and in the case of the port, sauterne, and orange—artificial color had been mixed and packed therewith so as to reduce and lower its quality, and in that a mixture of concentrated grape juice and glucose—the port and orange containing artificial color and the sauterne containing artificial color and sucrose—had been substituted for wine sirup. Adulteration was alleged for the further reason that the article had been mixed, and the port, sauterne and orange had also been colored, in a manner whereby inferiority was concealed.

Misbranding was alleged for the reason that the following statements on the label were false and misleading and tended to deceive and mislead the purchaser: "Winesyrup * * * Contents contain trace artificial color and flavor as used by wine-makers * * * Pure Food Product." Misbranding was alleged for the further reason that the article was an imitation of, and was offered for sale under the distinctive name of another article.

On December 27, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25685. Misbranding of wine. U. S. v. Forty 1-Gallon Bottles and One Hundred and Three ½-Gallon Bottles of Wine. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 36602. Sample nos. 49905-B to 49908-B, incl.)

This case involved wine, which was labeled to convey the impression that it contained 21 percent of alcohol but which contained less than represented, samples having been found to analyze from 16.30 percent to 16.92 percent of alcohol by volume.

On November 6, 1935, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of forty 1-gallon bottles and one hundred and three ½-gallon bottles of wine at Perth Amboy, N. J., alleging that the article had been shipped in interstate commerce on or about October 1, 1935, by the Monarch Wine Co., Inc., from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Main bottle label) "Cavern Fine California Wine * * * Monarch Wine Company, New York, N. Y."; (neck band) "Not over 21% Alcohol By Volume."

The article was alleged to be misbranded in that the statement on the neck band, "Not Over 21% Alcohol By Volume", was misleading and tended to mislead and deceive the purchaser, when applied to a product containing less than that amount of alcohol.

On December 31, 1935, Isador Mahler, Perth Amboy, N. J., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be relabeled under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

25686. Misbranding of canned peas. U. S. v. 913 Cases of Canned Peas, and other libels. Decrees of condemnation. Product released under bond for relabeling. (F. & D. nos. 36603, 36616, 36708, 36716, 36717, 36770, 36879. Sample nos. 40140-B, 40141-B, 40142-B, 50535-B, 54068-B to 54072-B, incl.)

These cases involved canned peas which contained an excessive proportion of ruptured peas and, in certain lots, excessive packing medium, which were not labeled to indicate that they were substandard.

On November 6 and November 13, 1935, the United States attorney for the Southern District of West Virginia, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,304 cases of canned peas at Charleston, W. Va. On December 5, 6, 10, and 26, 1935, libels were filed against 350 cases of canned peas at Philadelphia, Pa., 430 cases of the product at Camden, N. J., 124 cases at Trenton, N. J., and 200 cases at Newark, N. J. The libels alleged that the article had been shipped in interstate commerce between the dates of June 29 and November 27, 1935, in part by the Eastern Shore Canning Co., and in part by Thomas Roberts & Co., from Machipongo, Va., and that it was misbranded in violation of the Food and Drugs Act as amended. Portions of the article were labeled: "Eastern Shore Brand [or "Escco Brand"] Early June Peas * * * Packed by the Eastern Shore Canning Co., Machipongo, Va." The remainder was labeled: "Pride of the Farm Brand Early June Peas * * * Thomas Roberts & Co. Philadelphia, Pa., U. S. A., Distributor."

The libels charged that the article was misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture and in that certain lots also fell below the standard of fill of container so promulgated, since the peas were not immature and certain lots were slack-filled, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On December 10, December 31, 1935, January 13 and February 5, 1936, the Eastern Shore Canning Co. and A. T. Leatherbury, having appeared as claimants for respective portions of the product, judgments of condemnation were entered and it was ordered that the product be released under bond conditioned that it be relabeled under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

25687. Adulteration and misbranding of honey malt chocolate flavor. U. S. v. 309 Jars of Honey Malt Chocolate Flavor. Default decree of condemnation and destruction. (F. & D. no. 36604. Sample no. 42792-B.)

This product was sold as a chocolate-flavored mixture of honey and malt. Examination showed that it was a mixture of sugar, water, and cocoa, slightly flavored with honey and malt, also that it was short in weight.

On November 6, 1935, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 309 jars of honey malt chocolate flavor at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about June 6, 1935, by the Silver Label Products Co., from Brooklyn, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Honey Malt Chocolate Flavor * * * Silver Label Prod. Co., Bklyn., N. Y., Net Wt. 1 Lb."

The article was alleged to be adulterated in that a mixture of sugar, water, and cocoa, slightly flavored with honey and malt had been substituted for a chocolate-flavored mixture of honey and malt, which the article purported to

be. Misbranding was alleged for the reason that the statements, "Honey Malt Chocolate Flavor" and "Net Wt. 1 Lb.", were false and misleading and tended to deceive and mislead the purchaser. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article, and for the further reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On December 21, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25688. Adulteration of canned salmon. U. S. v. 5,044 Cases and 861 Cases of Canned Salmon. Consent decree of condemnation. Product released under bond. (F. & D. nos. 36606, 36658. Sample nos. 40818-B, 40828-B, 53654-B, 53695-B, 54495-B.)

These cases involved canned salmon which was in part decomposed.

On November 6 and November 21, 1935, the United States attorney for the Western District of Washington, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 5,905 cases of salmon at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about July 23 and August 21, 1935, by the San Juan Fishing & Packing Co., from Port San Juan, Alaska, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On December 27, 1935, the San Juan Fishing & Packing Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, and the cases having been consolidated, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it should not be sold or otherwise disposed of contrary to the provisions of the Federal Food and Drugs Act.

W. R. GREGG, *Acting Secretary of Agriculture.*

25689. Misbranding of honey. U. S. v. Thirty-three 5-Pound Pails and Thirty 21-Ounce Jars of Honey, and other cases. Default decrees of condemnation. Product ordered delivered to charitable or relief organizations. (F. & D. nos. 36628 to 36631, incl., 36648. Sample nos. 42519-B, 42553-B, 42554-B, 50427-B, to 50430-B, incl., 50432-B.)

These cases involved various shipments of honey that were short in weight.

On November 18, November 21, and November 25, 1935, the United States attorney for the Middle District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of one hundred and sixty-seven 5-pound pails, five hundred and fifty-two 21-ounce jars, eighty-four 12-ounce jars, and one hundred and forty-four 7½-ounce jars of honey in various lots, at Lakewood, Carbondale, Scranton, and Wilkes-Barre, Pa., alleging that the article had been shipped in interstate commerce between the dates of December 10, 1934, and October 28, 1935, by L. E. Rogers, from Binghamton, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. A portion of the article was labeled: "5 Lbs. [or "21 oz." or "12 ozs."] Net Wgt. Pure Honey Put up by L. E. Rogers * * * Binghamton, N. Y." The remainder was labeled: "Wilco Brand Honey Contents 7½ Oz. Avoir. [or "21 Ounces"] Distributed by Williams Bros. & Co. Wilkes Barre, Pa."

The article was alleged to be misbranded in that the statements on the labels, "5 Lbs. Net Wgt.", "21 Ozs. Net Wgt.", "12 Ozs. Net Wgt.", "Contents 7½ Oz. Avoir.", and "Contents 21 Ounces", were false and misleading and tended to deceive and mislead the purchaser. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

On December 30, 1935, and January 3, 1936, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be delivered to charitable or relief organizations.

W. R. GREGG, *Acting Secretary of Agriculture.*

25690. Adulteration of canned salmon. U. S. v. 5,325 Cases of Canned Salmon, and other actions. Decrees of condemnation. Portion of product released under bond; remainder ordered destroyed. (F. & D. nos. 36542, 36600, 36619, 36620, 36625, 36626, 36627, 36641, 36643, 36649, 36651, 36652, 36691, 36695, 36699, 36700, 36719, 36720, 36799, 36909. Sample nos. 40633-B, 40634-B, 40636-B, 40638-B, 40646-B to 40649-B, incl., 41409-B, 43497-B, 47187-B, 49069-B, 50131-B, 50287-B, 50288-B, 50440-B, 51774-B, 52004-B, 52355-B, 52356-B, 52357-B, 52359-B, 52360-B, 52361-B, 52364-B, 52372-B, 52374-B, 52375-B.)

These cases involved canned salmon that was in part decomposed.

On October 28, 1935, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 5,325 cases of canned salmon at Astoria, Oreg. Between the dates of November 6, 1935, and January 3, 1936, libels were filed against a total of 4,618 cases of canned salmon in various lots at Pittsburgh, Pa.; Keokuk, Burlington, Muscatine, Davenport, Clinton, Cedar Rapids, Waterloo, and Ottumwa, Iowa; Wellsville, Albany, Rochester, Troy, and Herkimer, N. Y.; Omaha, Nebr.; Boston, Mass.; St. Paul, Minn.; and St. Louis, Mo. The libels alleged that the article had been shipped in interstate commerce by the Columbia River Packers Association in part on or about August 18, 1935, from Alaska into the State of Oregon and in part between the dates of August 23 and October 21, 1935, from Astoria, Oreg., into the States of Pennsylvania, Iowa, New York, Nebraska, Massachusetts, Minnesota, and Missouri, respectively, and that it was adulterated in violation of the Food and Drugs Act. Portions of the article were labeled variously: "Esquimaux Brand [or "West Coast Brand", "Commerce Brand", "Fishermens Brand", or "Bear Brand"] * * * Packed by Columbia River Packers Assn. * * * Astoria Oregon"; "Rare Treat Brand Fancy Pink Salmon"; "Heart's Delight Brand * * * Packed for Scoville, Brown & Co., Wellsville, N. Y."; "Big Value Brand * * * Distributors S. Hamill Company, Keokuk, Iowa." The remainder was unlabeled.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On December 13, 1935, no claim having been entered for the lot seized at Pittsburgh, Pa., judgment of condemnation was entered and it was ordered that the said lot be destroyed. Between the dates of November 12 and March 27, 1936, the Columbia River Packers Association, Astoria, Oreg., Scoville, Brown & Co., Wellsville, N. Y.; Rochester Grocery Co., Rochester, N. Y.; W. W. Wilson Co., Troy, N. Y.; Herkimer County Grangers Exchange, Inc., Herkimer, N. Y.; Albany Wholesale Grocery Co., Albany, N. Y.; Griggs Cooper Co., St. Paul, Minn.; and Max Rabinovitz, Boston, Mass., having intervened in the remaining cases and having filed claims for their respective portions of the product, judgments of condemnation were entered and it was ordered that the product be released under bond, conditioned that it should not be disposed of in violation of the law.

W. R. GREGG, *Acting Secretary of Agriculture.*

25691. Adulteration of canned salmon. U. S. v. 2,725 Cases of Canned Salmon, and other actions. Consent decree of condemnation. Product released under bond. (F. & D. nos. 36642, 36647, 36679, 36701, 36718. Sample nos. 53670-B, 53674-B, 53691-B, 53692-B, 54477-B, 54478-B, 54479-B, 54492-B, 54563-B, 54564-B.)

These cases involved interstate shipments of canned salmon which was in part decomposed.

On November 18, November 20, November 26, December 4, and December 6, 1935, the United States attorney for the Western District of Washington, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 6,884 cases of canned salmon at Seattle, Wash., alleging that the article had been shipped in interstate commerce in various shipments on or about August 6, August 14, and September 17, 1935, by the Perl Straits Packing Co., from Todd, Alaska, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On December 27, 1935, the Perl Straits Packing Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, and the cases having been consolidated, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that

it should not be sold or otherwise disposed of contrary to the provisions of the Federal Food and Drugs Act.

W. R. GREGG, *Acting Secretary of Agriculture.*

5692. Adulteration of tomato puree. U. S. v. 50 Cases of Tomato Puree. Default decree of condemnation and destruction. (F. & D. no. 36653. Sample no. 26984-B.)

This case involved tomato puree which contained filth resulting from worm infestation.

On November 23, 1935, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 50 cases of tomato puree at Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce on or about October 26, 1935, by the Howard Terminal, from Oakland, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Hollister Brand Tomato Puree * * * Packed by Hollister Canning Co., Hollister, Cal."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On January 10, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25693. Adulteration of tomato puree. U. S. v. 3,500 Cases of Tomato Puree. Default decree of condemnation and destruction. (F. & D. no. 36664. Sample nos. 49497-B, 49610-B.)

This case involved canned tomato puree that contained filth resulting from worm infestation.

On November 27, 1935, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 3,500 cases of canned tomato puree at Camden, N. J., alleging that the article had been shipped in interstate commerce on or about February 27, 1935, by the Greco Canning Co., from San Jose, Calif., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On April 2, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25694. Misbranding of canned tuna fish. U. S. v. 125 Cases and 326 Cases of Canned Tuna Fish. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. nos. 36685, 36686. Sample nos. 50280-B to 50283-B, incl.)

These cases involved canned tuna fish that was short in weight.

On December 2, 1935, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 125 cases of tuna fish at Hoboken, N. J., and 326 cases of tuna fish at Jersey City, N. J., alleging that the article had been shipped in interstate commerce on or about September 27, 1935, by Van Camp Sea Food Co., Inc., from Terminal Island, Calif., and charging misbranding in violation of the Food and Drugs Act as amended.

A portion of the article was labeled: "Mission Brand Tuna Light Meat Weight 7 Oz. Net * * * Packed by Van Camp Sea Food Co. Inc." The remainder was labeled: "Contents 7 Oz. Avoir. Filigree Light Meat Tuna Fish Packed for Hudson Wholesale Grocery Co. * * * Jersey City, N. J."

The article was alleged to be misbranded in that the statements, "Weight 7 Oz. Net" and "Contents 7 Oz. Avoir.", borne on the labels, were false and misleading and tended to deceive and mislead the purchaser; and for the further reason that the article was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package since the statement made was incorrect.

On February 7, 1936, the Van Camp Sea Food Co., claimant, having admitted the allegations of the libels and having consented to the entry of decrees, judgments of condemnation were entered and it was ordered that the product be released under bond conditioned that it be relabeled under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

25695. Adulteration of canned salmon. U. S. v. 3,256 Cases of Canned Salmon. Decree of condemnation. Product released under bond. (F. & D. no. 36678. Sample nos. 53686-B, 54558-B.)

This case involved canned salmon which was in part decomposed.

On November 26, 1935, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 3,256 cases of canned salmon at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about August 20, 1935, by the Annette Island Canning Co., from Metlakatla, Alaska, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Select Pink Salmon Kelley Clarke Co. Seattle Distributors."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On November 30, 1935, the Annette Island Canning Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it should not be disposed of in violation of the Federal Food and Drugs Act.

W. R. GREGG, *Acting Secretary of Agriculture.*

25696. Adulteration and misbranding of Lemonina E-Z Squeeze and Lemonina Extra Dry. U. S. v. 2 Cases of Lemonina E-Z Squeeze, and other actions. Default decrees of condemnation and destruction. (F. & D. nos. 36668, 37092, 37171. Sample nos. 45947-B, 50484-B, 60737-B.)

These cases involved shipments of Lemonina E-Z Squeeze, a product consisting essentially of citric acid, and a shipment of Lemonina Extra Dry, apparently the same product dissolved in water, which were represented to be powdered lemon juice and concentrated lemon juice, respectively. Certain packages of the Lemonina E-Z Squeeze were not labeled with a statement of the quantity of the contents.

On November 30, 1935, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two cases of Lemonina E-Z Squeeze at San Francisco, Calif. On or about January 22 and February 8, 1936, libels were filed against 536 bottles of Lemonina Extra Dry at Hartford, Conn., and 18 cartons of Lemonina E-Z Squeeze at Denver, Colo. The articles had been shipped in interstate commerce from New York, N. Y., two of the shipments having been made in the name of the Lemonina Products Corporation and the remaining shipment by the same firm in the name of an agent. The libels alleged that the articles had been shipped between the dates of July 25 and October 3, 1935, and that they were adulterated and misbranded in violation of the Food and Drugs Act as amended. The articles were labeled in part: "Dover Importing Corp. * * * New York, N. Y."

The libels charged adulteration of the Lemonina E-Z Squeeze in that a mixture of citric acid with a trace of citral, with respect to one lot, and a mixture of citric acid with a small amount of essential oil, with respect to the other lot, had been substituted for powdered lemon juice which the article purported to be. Adulteration of the Lemonina Extra Dry was alleged for the reason that a dilute solution of citric acid containing traces of lemon oil had been substituted for concentrated lemon juice which the article purported to be.

Misbranding was alleged for the reason that the statements, "Lemonina * * * Prepared from fresh lemon juice * * * Use like lemon juice for cooking flavoring mixing * * * dissolve contents * * * and use as you would the juice of one lemon", with respect to the Lemonina E-Z Squeeze, and the statements, "Lemonina * * * A product of pure Messina Lemon Concentrate adjusted to the acidity of average lemon juice with ozonated water, stabilized with purified casein. Use in cooking wherever lemon juice is used", with respect to the Lemonina Extra Dry were false and misleading and tended to deceive and mislead the purchaser. Misbranding of the Lemonina Extra Dry was alleged for the further reason that it was an imitation of and was offered for sale under the distinctive name of another article. Misbranding was alleged with respect to certain packages of the Lemonina E-Z Squeeze for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On January 14, April 23, and May 7, 1936, no claimant having appeared, judgments of condemnation were entered and it was ordered that the products be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25697. Adulteration and misbranding of chili powder. U. S. v. 6 Cases of Chili Pepper, and other actions. Decrees of condemnation and destruction. (F. & D. nos. 36696, 36707, 37077, 37078, 37134, 37135, 37276, 37277, 37321. Sample nos. 32472-B, 38575-B, 40717-B, 48205-B to 48208-B incl., 49336-B, 54851-B, 56348-B.)

These cases involved chili powder which contained arsenic in an amount which might have rendered it injurious to health.

On December 2, 1935, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of six cases of chili powder at Seattle, Wash. On December 16, 1935, January 30, February 1, February 28, February 29, March 2, and March 5, 1936, libels were filed against 14 barrels of the product in various lots at Denver, Colo.; Chicago, Ill.; Kansas City, Mo.; Tulsa, Okla.; Milwaukee, Wis.; Memphis, Tenn.; and Louisville, Ky. The libels alleged that the article had been shipped in interstate commerce between the dates of October 29, 1935, and January 15, 1936, in part by Miller Bros. Co., from Wilmington, Garden Grove, and Los Angeles, Calif.; and in part for Miller Bros. Co., from Chicago, Ill., and Kansas City, Mo.; and that it was adulterated and portions were misbranded in violation of the Food and Drugs Act. A portion of the article was labeled in part: "This Product Guaranteed to be Pure and Unadulterated 'Real Best' * * * Pure Mex Chili Pepper New Crop from Miller Bros. Co."

The article was alleged to be adulterated in that it contained an added poisonous and deleterious ingredient, arsenic, which might have rendered it injurious to health.

Misbranding was alleged with respect to portions of the article for the reason that the statement on the label, "This product guaranteed to be pure and unadulterated", was false and misleading and tended to deceive and mislead the purchaser.

On December 26, 1935, January 27, February 20, March 26, March 31, April 28, April 29, and June 3, 1936, no claim having been entered for the property, judgments of condemnation were entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25698. Misbranding of vegetable oil. U. S. v. Six 5-Gallon Cans, et al., of Oil. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. no. 36697. Sample no. 27134-B.)

This case involved cottonseed oil which was labeled to convey the impression that it was olive oil.

On December 6, 1935, the United States attorney for the District of Nevada, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of six 5-gallon cans, 33 gallon cans, 40 half-gallon cans, and 38 quart cans of oil at Winnemucca, Nev., alleging that the article had been shipped in interstate commerce in various shipments between the dates of June 18 and October 15, 1935, by D. F. De Bernardi & Co., from San Francisco, Calif., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Refined Vegetable Oil Olio Marca Romino * * * Packed and Guaranteed by D. De Bernardi & Co. San Francisco."

The article was alleged to be misbranded in that the statements in the Italian language, "Olio Marca Romino" and "Olio Sopraffino Garantito Puro Sotto Qualunque Analisi Chimica", were misleading and tended to deceive the purchaser in the belief that the article was Italian olive oil; whereas it consisted of cottonseed oil.

On February 3, 1936, D. F. De Bernardi & Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be relabeled under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

25699. Adulteration of dried prunes. U. S. v. 34 Boxes of Dried Prunes. Default decree of condemnation and destruction. (F. & D. no. 36698. Sample no. 46359-B.)

This case involved a shipment of dried prunes that were worm-infested and dirty.

On December 4, 1935, the United States attorney for the District of Nevada, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 34 boxes of dried prunes at Reno, Nev., alleging that the article had been shipped in interstate commerce on or about July 3, 1935, by the Albert Asher Co., from San Francisco, Calif., and charging adulteration in violation of the Food and Drugs Act.

The article was labeled in part: "Santa Clara Prunes Packed by Albert Asher Co. San Francisco, California."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On March 4, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25700. Adulteration of apples. U. S. v. 49 Bushels of Apples. Consent decree of condemnation. Product delivered to charitable institutions on condition that the deleterious substances be removed before its use. (F. & D. no. 36743. Sample no. 49060-B.)

This case involved apples that were contaminated with arsenic- and lead-spray residue.

On October 30, 1935, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 49 bushels of apples at Omaha, Nebr., alleging that the article had been transported in interstate commerce from the orchard of E. Kreft, at Council Bluffs, Iowa, to Omaha, Nebr., by Leo Leftitz, on or about October 25, 1935, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On November 6, 1935, the consignor and consignee having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be delivered to a charitable institution on condition that it be pared in order to remove the deleterious substances, and the parings destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25701. Adulteration of apples. U. S. v. 156 Crates and 77 Crates of Apples. Consent decree of condemnation. Product released under bond, conditioned that deleterious substance be removed. (F. & D. nos. 36747, 36748. Sample nos. 49686-B, 49910-B, 49912-B.)

These cases involved apples that were contaminated with a lead-spray residue.

On October 23 and November 4, 1935, the United States attorney for the Southern District of New York, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 233 crates of apples at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about September 19 and October 16, 1935, by C. J. Williamson, of Benson, Vt., in pool car shipment from Orwell, Vt., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "C. J. Williamson, Benson, Vt."

The article was alleged to be adulterated in that it contained an added poisonous ingredient, lead, which might have rendered it injurious to health.

On November 16, 1935, a claim for the product having been entered by an agent for the owner admitting the allegation of the libels and consenting to the entry of a decree of condemnation, the cases were consolidated. On November 22, 1935, judgment was entered ordering that the product be released under bond conditioned that the excess lead-spray residue be removed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25702. Adulteration of tomato catsup. U. S. v. 35 Cases of Catsup. Default decree of condemnation and destruction. (F. & D. no. 36750. Sample no. 46351-B.)

This case involved tomato catsup that contained filth resulting from worm and insect infestation.

On December 10, 1935, the United States attorney for the District of Nevada, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 35 cases of catsup at Reno, Nev., alleging that the article had been shipped in interstate commerce on or about September 7, 1935, by the California Conserving Co., from Hayward, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "C S B California Home Brand Tomato Catsup Made by California Conserving Co."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On March 4, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25703. Adulteration of butter. U. S. v. 58 Boxes of Butter. Default decree of condemnation and destruction. (F. & D. no. 36766. Sample no. 43679-B.)

This case involved a shipment of butter that contained mold.

On October 9, 1935, the United States attorney for the District of New Hampshire, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 58 boxes of butter at Concord, N. H., consigned about September 26, 1935, alleging that the article had been shipped in interstate commerce by Swift & Co., from Centerville, Iowa, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Swift's Premium Quality Brookfield Butter."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance.

On November 13, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25704. Adulteration and misbranding of cheese. U. S. v. 16 Cheeses. Default decree of condemnation. Product delivered to charitable organization. (F. & D. no. 36785. Sample no. 50290-B.)

This case involved cheese that was deficient in fat and contained excessive moisture.

On December 12, 1935, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 16 cheeses at New York, N. Y., consigned by Sunrise Dairy Products Co., Inc., from Fremont, Ohio, alleging that the article had been shipped in interstate commerce on or about October 15, 1935, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part, "Full Cream Cheese."

The article was alleged to be adulterated in that a substance deficient in fat and containing excessive moisture had been substituted in whole or in part for cheese, which the article purported to be.

Misbranding was alleged for the reason that the designation "Cream Cheese" was false and misleading and tended to deceive and mislead the purchaser, and for the further reason that the article was offered for sale under the distinctive name of another article, namely, cream cheese.

On January 18, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be delivered to a charitable organization.

W. R. GREGG, *Acting Secretary of Agriculture.*

25705. Adulteration and misbranding of strawberry preserve. U. S. v. 8 Cartons of Strawberry Preserve. Default decree of condemnation and destruction. (F. & D. no. 36806. Sample no. 44106-B.)

This case involved a shipment of alleged strawberry preserve which was deficient in fruit and contained added acid and pectin and excessive moisture.

On December 18, 1935, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of eight cartons of

strawberry preserve at Boston, Mass., alleging that said article had been shipped in interstate commerce on or about August 9, 1935, by the White Gate Products Corporation, from New York City, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "White Gate Pure Strawberry Preserves * * * White Gate Products Corp., N. Y."

The article was alleged to be adulterated in that a mixture of sugar, acid, water, and pectin had been mixed and packed with the article so as to reduce, lower, or injuriously affect its quality; in that a mixture of fruit, sugar, acid, pectin, and moisture, containing less fruit than a preserve should contain had been substituted for preserves; and in that said article had been mixed in a manner whereby inferiority had been concealed.

The article was alleged to be misbranded, in the case of food, in that the statement on the label, "Pure Strawberry Preserves", was false and misleading and tended to deceive and mislead the purchaser when applied to a product resembling a preserve, but which contained less fruit than a preserve should contain; and in that it was an imitation of and offered for sale under the distinctive name of another article.

On July 27, 1936, no claimant having appeared, a judgment of condemnation was entered and it was ordered that the article be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25706. Adulteration of apples. U. S. v. 528 Bushels of Apples, and other actions. Product released under bond conditioned that deleterious substances be removed. (F. & D. nos. 36825, 36826, 36827. Sample nos. 48944-B, 48945-B, 48946-B.)

These cases involved shipments of apples that were contaminated with lead and arsenic.

On November 22, 1935, the United States attorney for the Western District of Missouri, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,647 bushels of apples at St. Joseph, Mo., alleging that the article had been shipped in interstate commerce between the dates of September 30, 1935, and October 12, 1935, by the Treat Orchard, from Atchison, Kans., and charging adulteration in violation of the Food and Drugs Act. The article was labeled, "Treat Orchard Jonathan."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, which might have rendered it injurious to health.

On December 18, 1935, Grace T. Berry and Robert Berry (Treat Orchard) of Atchison, Kans., claimants, having admitted the allegations of the libels, and having consented that judgment be entered for condemnation of the product, decrees were entered ordering that the apples be released under bond conditioned that they be washed in order to remove the deleterious substances.

W. R. GREGG, *Acting Secretary of Agriculture.*

25707. Adulteration of apples. U. S. v. 155 Bushels of Apples. Default decree of condemnation. Product ordered washed or peeled to remove deleterious substances, and delivered to a charitable institution. (F. & D. no. 36831. Sample no. 49215-B.)

This case involved an interstate shipment of apples, examination of which showed the presence of arsenic and lead which might have rendered them injurious to health.

On November 21, 1935, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 155 bushels of apples at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about October 1, 1935, by the Burr Fruit Co., from Leavenworth, Kans., and that it was adulterated in violation of the Food and Drugs Act. The article, contained in baskets, was labeled: "Grimes Golden Grown & Packed by Burr Fruit Farm Leavenworth Kans."

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it injurious to health.

On January 23, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the apples be washed or peeled to remove the deleterious substances, and delivered to some charitable institution.

W. R. GREGG, *Acting Secretary of Agriculture.*

25708. Adulteration of cheese. U. S. v. 100 Cases of Cheese. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36851. Sample no. 55402-B.)

This product contained portions of flies.

On December 26, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of a quantity of cheese at Chicago, Ill., alleging that the article had been shipped in interstate commerce, on or about November 8, 1935, by the Badger Brodhead Cheese Co., from Monroe, Wis., to Chicago, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Case) "Badger Brand Limberger Cheese With That Old Fashioned Flavor American Style."

Adulteration of the product was charged under the allegation that it consisted in whole or in part of a filthy animal substance.

On March 2, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25709. Adulteration and misbranding of strawberry and raspberry preserves. U. S. v. 30 Dozen Jars of Strawberry Preserves and 20 Dozen Jars of Raspberry Preserves. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36854. Sample nos. 44120-B, 44121-B.)

These products were deficient in fruit and contained added pectin.

On December 23, 1935, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of quantities of strawberry and raspberry preserves at Fall River, Mass., alleging that the articles had been shipped in interstate commerce, on or about November 4, 1935, by the Velmo Co., from New York, N. Y., into the State of Massachusetts and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: (Jars) "Velmo Brand Pure Preserves Strawberry [or "Raspberry"]."

Adulteration of each of the articles was charged (a) under the allegation that a mixture of sugar, water, and pectin had been mixed and packed therewith so as to reduce, lower, or affect its quality; (b) under the allegation that a mixture of fruit, sugar, pectin, and moisture, containing less fruit than preserve, had been substituted for preserve; (c) under the allegation that a mixture of sugar, water, and pectin had been mixed therewith in a manner whereby inferiority was concealed.

Misbranding of the articles was charged (a) under the allegation that the statement on the label, to wit, "Pure Preserves Strawberry" or "Pure Preserves Raspberry", as the case might be, was false and misleading and tended to deceive and mislead the purchaser when applied to a product resembling a preserve but which contained less fruit than preserve; (b) under the allegation that each of the articles was an imitation and was offered for sale under the distinctive name of another article.

On March 30, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25710. Adulteration and misbranding of strawberry and raspberry preserves. U. S. v. 8 Cartons of Strawberry Preserves and 8 Cartons of Raspberry Preserves, and another libel proceeding against the same products. Default decree of condemnation, forfeiture, and destruction in each case. (F. & D. nos. 36855, 36888. Sample nos. 44122-B to 44125-B, incl. 44130-B, 44131-B.)

These products were deficient in fruit and contained added pectin and water. The strawberry preserves also contained added acid.

On December 23 and December 27, 1935, the United States attorney for the District of Massachusetts, acting upon reports by the Secretary of Agriculture, filed in the district court on each of said dates, a libel praying seizure and condemnation of a quantity of strawberry and raspberry preserves at Fall River, Mass., alleging that the articles had been shipped in interstate commerce, on or about October 5 and November 15, 1935, by the Ile de France Import Co., Inc., from Brooklyn, N. Y., into the State of Massachusetts, and charging adulteration and misbranding in violation of the Food and Drugs Act. The two articles were labeled: (Jars) "Unexcelled Quality * * * Paramount Brand Pure Strawberry [or "Raspberry"] Preserves Ile de France Import Co. N. Y."

Adulteration of each of the strawberry preserves was charged (a) under the allegation that a mixture of sugar, acid, water, and pectin had been mixed therewith so as to reduce, lower, or affect their quality; (b) under the allegation that a mixture of fruit, sugar, acid, pectin, and moisture containing less fruit than preserve should contain had been substituted for preserve; (c) and under the allegation that a mixture of sugar, acid, water, and pectin had been mixed with the article in a manner whereby inferiority was concealed. Adulteration of the raspberry preserves was charged under allegations which differed from the foregoing only in that acid was not alleged to be an ingredient of the product.

Misbranding of the two articles was charged (a) under the allegations that the statements on the labels, "Pure Strawberry Preserves" and "Pure Raspberry Preserves", respectively, were false and misleading and tended to deceive and mislead the purchaser when applied to articles resembling preserves but containing less fruit than preserves contain; (b) under the allegation that the articles were imitations of and were offered for sale under the distinctive names of other articles.

On March 16 and March 30, 1936, no claimant having appeared, default decrees of condemnation, forfeiture, and destruction were entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25711. Adulteration of cheese. U. S. v. 4 Cases of Limburger cheese, and another libel proceeding against the same product. Default decree of condemnation, forfeiture, and destruction in each case. (F. & D. nos. 36857, 36903. Sample nos. 19083-B, 55401-B.)

This product contained portions of flies and nondescript dirt.

On December 26, 1935, and January 6, 1936, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of quantities of Limburger cheese at Chicago, Ill., alleging that the article had been shipped in interstate commerce, on or about December 6 and December 7, 1935, by the Shefford Cheese Co., from Monroe, Wis., into the State of Illinois, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Case) "Shefford Cheese Limburger."

Adulteration of the product was charged under the allegation that it consisted in whole or in part of a filthy animal substance.

On February 28, 1936, no claimant having appeared in either case, a default decree of condemnation, forfeiture, and destruction was entered in each.

W. R. GREGG, *Acting Secretary of Agriculture.*

25712. Misbranding of canned peas. U. S. v. 202 Cases and 78 Cases of Canned Peas. Default decrees of condemnation. Portion of product delivered to charitable institution; remainder destroyed. (F. & D. nos. 36873, 36878. Sample nos. 50463-B, 50538-B.)

These cases involved interstate shipments of canned peas which were substandard because of the presence of an excessive number of mature peas, and which were not labeled to indicate that they were substandard.

On December 26, 1935, the United States attorneys for the Districts of Connecticut and New Jersey, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 202 cases of canned peas at New Haven, Conn., and 78 cases of canned peas at Newark, N. J., alleging that the article had been shipped in interstate commerce by the Hillsboro Queen Anne Cooperative Corporation, in part from Lewes, Del., on or about October 9, 1935, and in part from Queen Anne, Md., on or about November 6, 1935, and charging misbranding in violation of the Food and Drugs Act as amended. A portion of the article was labeled: "Ma-Son June Peas * * * The Stevenson-Mairs Co. Distributors, Baltimore, Md." The remainder was labeled: "Pride of Hillsboro Brand Early June Peas * * * Distributed by the Easton Canning Corporation, Hillsboro, Md., Easton, Md."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, because of the presence of an excessive number of mature peas, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

No claimant appeared. On June 15 and July 24, 1936, judgments of condemnation were entered. The lot seized at New Haven, Conn., was ordered de-

stroyed and that seized at Newark, N. J., was ordered delivered to a charitable institution after the labels had been removed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25713. Adulteration of tomato catsup. U. S. v. 1,244 Cases of Tomato Catsup. Consent decree of condemnation and confiscation. Product released under bond. (F. & D. no. 36919. Sample no. 49151-B.)

This case involved shipment of tomato catsup that consisted in part of worm and insect debris.

On January 9, 1936, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,244 cases, each containing six cans of tomato catsup, at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about September 14, 1935, by Parrott & Co., from Elmhurst, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Fair Play Brand * * * Tomato Catsup."

The article was alleged to be adulterated in that it consisted in part of a filthy vegetable substance, to wit, worm and insect debris.

On August 21, 1936, the Green Bros. Mercantile Co., having appeared as claimant for the article and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be delivered to the claimant under bond conditioned that it be segregated as to codes and analyzed to determine which codes were in proper condition to be released.

W. R. GREGG, *Acting Secretary of Agriculture.*

25714. Adulteration of canned salmon. U. S. v. Lowe Trading Co. Plea of guilty. Fine, \$10 and costs. (F. & D. no. 36938. Sample nos. 40533-B, 40540-B, 40543-B to 40547-B, incl., 40553-B, 40555-B to 40560-B, incl., 40563-B, 40564-B, 40565-B, 40570-B, 40906-B.)

This case involved a shipment of canned red salmon that consisted in part of decomposed and putrid animal substance.

On March 17, 1936, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Lowe Trading Co., a corporation, trading at Seattle, Wash., alleging that on or about August 17, 1935, the defendant had shipped to itself from Seward, Alaska, into the State of Washington a number of unlabeled cans of red salmon, and that the article was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in part of decomposed and putrid animal substance.

On April 27, 1936, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of \$10 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25715. Adulteration of cream. U. S. v. Ross & Co., Inc. Plea of guilty. Fine, \$50 and costs. (F. & D. no. 36949. Sample no. 33334-B.)

This case involved an interstate shipment of cream that consisted in part of a decomposed and putrid animal substance.

On January 13, 1936, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Ross & Co., Inc., trading at La Belle, Mo., alleging that on or about August 31, 1935, the defendant had shipped from the State of Missouri into the State of Illinois a number of unlabeled 10-gallon cans of cream and that the article was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of decomposed and putrid animal substance.

On May 28, 1936, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$50 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25716. Adulteration and misbranding of butter. U. S. v. Edvild L. Dyre (Dixie Creamery). Plea of guilty, imposition of sentence suspended. Defendant placed on probation. (F. & D. no. 36952. Sample no. 45246-B.)

This case involved an interstate shipment of butter that was deficient in milk fat and that contained mold, some rodent hairs, and miscellaneous debris.

On February 17, 1936, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district

court an information against Edvild L. Dyre, trading as Dixie Creamery at Madison, Fla., alleging that on or about August 9, 1935, the defendant had shipped from the State of Florida, into the State of Georgia, a quantity of butter, and that the article was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Southern Gold Creamery Butter * * * Elgin Butter Company Jacksonville, Fla."

The article was alleged to be adulterated in that a product deficient in milk fat, in that it contained less than 80 percent by weight of milk fat, had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat; and in that said article consisted in part of filthy animal substance due to mold and contaminants.

The article was alleged to be misbranded in that the statement "Butter", borne on said cartons, was false and misleading, and in that the said article was labeled so as to deceive and mislead the purchaser, since the said statement represented that the article was butter, i. e., a product containing not less than 80 percent of milk fat as defined by law; whereas it was not butter as so defined, but was a product containing less than 80 percent of milk fat.

On March 16, 1936, a plea of guilty was entered on behalf of the defendant. Imposition of sentence was suspended and the defendant was placed on probation for a period of 5 years.

W. R. GREGG, *Acting Secretary of Agriculture.*

25717. Adulteration of canned crab meat. U. S. v. Charles A. Loockerman, trading as C. A. Loockerman. Plea of guilty. Fine, \$225 and costs. (F. & D. no. 36954. Sample nos. 42100-B, 42102-B, 55355-A.)

This case involved a shipment of crab meat that consisted in part of a filthy animal substance.

On March 11, 1936, the United States attorney for the District of Maryland, acting upon report by the Secretary of Agriculture, filed in the district court an information against Charles A. Loockerman, trading as C. A. Loockerman, at Crisfield, Md., alleging that on or about July 23, July 24, and August 1, 1935, the defendant had shipped from the State of Maryland into the States of New Jersey and Pennsylvania, respectively, a number of cans of crab meat and charging that the article was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Regular Contents 1 Lb. Net Lift While Turning"; "Lift While Turning Contents 1 Lb. Net M D 191." (Some cans bore the word "regular" and others, the word "special.")

The article was alleged to be adulterated in that it consisted in part of a filthy animal substance due to pollution by fecal *Bacillus coli*.

On April 24, 1936, a plea of guilty was entered on behalf of the defendant, and the court imposed a fine of \$225 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25718. Adulteration of canned salmon. U. S. v. Al Jones (Kustatan Packing Co.). Plea of guilty. Fine, \$15 and costs. (F. & D. no. 36960. Sample nos. 37977-B, 37987-B, 37994-B, 40407-B.)

This case involved a shipment of canned salmon that was in part decomposed.

On April 27, 1936, the United States attorney for the third division of the District of Alaska, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Al Jones, trading as Kustatan Packing Co. at Anchorage, Alaska, alleging that on or about July 10, 1935, the defendant had shipped from Alaska into the State of Washington, a number of unlabeled cans of salmon, and that the article was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in part of decomposed animal substance.

On July 22, 1936, the defendant entered a plea of guilty and the court imposed a fine of \$15 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25719. Adulteration of tomato juice. U. S. v. 50 Cases of Tomato Juice. Default decree of condemnation and destruction. (F. & D. no. 37127. Sample no. 49263-B.)

This case involved an interstate shipment of canned tomato juice which was found to contain mold and to be in part decomposed.

On January 28, 1936, the United States attorney for the Northern District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the

district court a libel praying seizure and condemnation of 50 cases of canned tomato juice at Tulsa, Okla., alleging that the article had been shipped in interstate commerce, on or about October 17, 1935, by the Robinson Canning Co., from Siloam Springs, Ark., and that it was adulterated in violation of the Food and Drugs Act. The article was labeled: "King of Ozarks Brand Tomato Juice Contents 10 Fl. Oz. Packed by Robinson Canning Co. Robinson, Ark."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On February 4, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25720. Misbranding of canned peas. U. S. v. 20 Cases of Canned Peas. Default decree of condemnation and destruction. (F. & D. no. 37129. Sample no. 44022-B.)

This case involved an interstate shipment of canned peas which fell below the standard established by the Department of Agriculture because of the presence of an excessive proportion of ruptured peas, and the product was not labeled to indicate that it was substandard.

On January 31, 1936, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 20 cases of canned peas at Providence, R. I., alleging that the article had been shipped in interstate commerce, on or about January 13 and 16, 1936, by the Leavitt Sugar Co., Inc., from Cambridge, Mass., and that it was misbranded in violation of the Food and Drugs Act. The article was labeled: "Ray Brand Early June Peas Contents 1 lb. 4 oz. Packed for Frederick City Packing Co. Frederick, Maryland."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, for the reason that the peas were not immature, since more than 25 percent thereof were ruptured, and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On February 29, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25721. Adulteration and misbranding of alleged blackberry wine. U. S. v. 25 Bottles and 14 Bottles of Alleged Blackberry Wine. Default decree of condemnation. Product delivered to the Secretary of the Treasury for disposal according to law. (F. & D. nos. 37131, 37132. Sample nos. 51174-B, 51175-B.)

These cases involved interstate shipments of so-called blackberry wine which was artificially colored grape wine, containing little or no blackberry flavor, and a portion of which contained a lower percentage of alcohol than that represented on the label.

On January 30, 1936, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of the District of Columbia, holding a district court, two libels, one praying seizure and condemnation of twenty-five 1-gallon bottles, and the other, fourteen 1-gallon bottles of so-called blackberry wine, at Washington, D. C., alleging that the articles had been shipped in interstate commerce on or about November 27 and December 23 and 27, 1935, by Miglioretti Bros., from Baltimore, Md., and that the articles were adulterated and misbranded in violation of the Food and Drugs Act. The article in the lot of 25 bottles was labeled: "A product of California Native Blackberry Type A natural fermented Wine Bottled from tax paid goods by Miglioretti Bros. Baltimore, Md." The article in the lot of 14 bottles was labeled: "A product of California Native Blackberry A natural fermented Wine Bottled from tax paid goods by Miglioretti Bros., Baltimore, Md. Alcohol Strength not over 14%, nor under 11% by volume."

The article in the lot of 25 bottles and in the lot of 14 bottles was alleged to be adulterated (a) in that an artificially colored grape wine containing little or no blackberry flavor had been substituted for blackberry wine, which the article purported to be, and (b) in that the article had been mixed and colored in a manner whereby inferiority was concealed.

The article in the lot of 25 bottles was alleged to be misbranded in that the statement, "Blackberry Type * * * Wine", borne on the label, was false and misleading and tended to deceive and mislead the purchaser, when applied to an artificially colored grape wine containing little or no blackberry flavor. The article in the lot of 14 bottles was alleged to be misbranded in that the statement, "Blackberry * * * Wine Alcohol Strength not over 14% nor under 11% by volume", borne on the label, was false and misleading and tended to deceive and mislead the purchaser, when applied to an artificially colored grape wine containing little or no blackberry flavor, and containing 10.5 percent of alcohol by volume. The article in the lot of 25 bottles and in the lot of 14 bottles was alleged to be misbranded in that it was an imitation of and appeared for sale under the distinctive name of another article.

On April 8, 1936, no claimant having appeared, decrees of condemnation were entered and it was ordered that the product be delivered to the Secretary of the Treasury for disposal by him in accordance with law.

W. R. GREGG, *Acting Secretary of Agriculture.*

25722. Misbranding of canned peaches. U. S. v. 138 Cases of Canned Peaches. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. no. 37145. Sample no. 65309-B.)

This case involved an interstate shipment of canned peaches that fell below the standard established by the Department of Agriculture because the liquid portion fell below 14° Brix, indicating that the product was water-packed; and the pieces were not uniform in size, were not unblemished, and were not in unbroken halves. The product was not labeled to indicate that it was substandard.

On February 7, 1936, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 138 cases of canned peaches at Tacoma, Wash., alleging that the article had been shipped in interstate commerce on or about August 31, 1935, by the Packwell Corporation, from Oakland, Calif., and that it was misbranded in violation of the Food and Drugs Act. The article was labeled: "Net Contents 6 Lbs. 7 Oz. Bonnie Best Yellow Cling Peaches In Syrup Packed for Younglove Grocery Co., Tacoma, Wash."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that the article fell below such standard.

On March 16, 1936, the Younglove Grocery Co., claimant, having admitted the allegations of the libel and having consented to a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be relabeled to conform to the requirements of the Food and Drugs Act.

W. R. GREGG, *Acting Secretary of Agriculture.*

25723. Adulteration of sloeberries. U. S. v. 37 Bags of Sloeberries. Default decree of condemnation and destruction. (F. & D. no. 37157. Sample no. 46533-B.)

This case involved an interstate shipment of sloeberries that were wormy, moldy, and dirty.

On February 5, 1936, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 37 bags (6,035 pounds) of sloeberries at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about December 7, 1935, by Peek & Velsor, Inc., from New York, N. Y., and that it was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On March 2, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25724. Adulteration of cheese. U. S. v. 1 Wheel of Swiss Cheese. Default decree of condemnation and destruction. (F. & D. no. 37179. Sample no. 55653-B.)

This case involved an interstate shipment of so-called Swiss cheese that was deficient in fat.

On February 11, 1936, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one wheel of so-called Swiss cheese at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about January 2, 1936, by the Ackerman-Abplanalp Co., from Monroe, Wis., and that it was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a substance deficient in fat had been substituted in whole or in part for the article.

On April 3, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25725. Adulteration and misbranding of process Limburger cheese. U. S. v. 35 Cartons, et al., of Process Limburger Cheese. Default decree of condemnation and destruction. (F. & D. no. 37185. Sample nos. 42661-B, 42662-B, 42663-B.)

This case involved interstate shipments of Limburger cheese that contained portions of insects and rodent hairs.

On February 13, 1936, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 235 cartons each containing 12 jars of process Limburger cheese at Jersey City, N. J., alleging that the article was shipped in interstate commerce on or about December 26, 1935, and January 2 and January 13, 1936, by the Borden Sales Co., Inc., from Buffalo, N. Y., and that it was adulterated and misbranded in violation of the Food and Drugs Act. The jars of the article in two of the three lots were labeled: "Borden's Buffalo Brand Limburger Spread New York State Cheese Net Wt. 6 Oz. Spreads like Butter Made by Hasselbeck Cheese Company The Borden Sales Company, Inc., New York, Chicago, San Francisco, Distributors." The jars of the article in the remaining lot were labeled: "Borden's Buffalo Brand Limburger Spread Made in New York State Net Wt. 6 Oz. Pasteurized Process Cheese Made for Borden Quality Inc. By Borden Cheese Co., Inc. The Borden Sales Company, Inc. New York, Chicago, San Francisco, Distributors."

The article in all of the three lots was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

The article in the two lots first mentioned was alleged to be misbranded in that the statement, "New York State Cheese", borne on the label, was false and misleading and tended to deceive and mislead the purchaser when applied to process cheese.

On March 20, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25726. Misbranding of canned peas. U. S. v. 142 Cases of Canned Peas. Default decree of condemnation and destruction. (F. & D. no. 37202. Sample no. 65546-B.)

This case involved an interstate shipment of canned peas that fell below the standard established by the Department of Agriculture because of the presence of an excessive proportion of ruptured peas, and the product was not labeled to indicate that it was substandard.

On February 19, 1936, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 142 cases of canned peas at Providence, R. I., alleging that the article had been shipped in interstate commerce, on or about January 10, 1936, by Charles G. Summers, Jr., from Baltimore, Md., and that it was misbranded in violation of the Food and Drugs Act. The article was labeled: "Pacco Delicious Brand Early June Peas Contents 1 Lb. 4 Oz. Pennsylvania Canning Co. Cannery New Freedom, Pa."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, for the reason that the peas were not imma-

ture, since more than 25 percent thereof were ruptured, and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On March 4, 1936, no claimant having appeared, judgment of condemnation was entered, and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25727. Misbranding of confectionery. U. S. v. 23 Boxes of Candy Bars. Default decree of condemnation and destruction. (F. & D. no. 37212. Sample no. 54102-B.)

This case involved an interstate shipment of confectionery the packages of which were short in weight.

On February 17, 1936, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 23 boxes of candy at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about December 18, 1935, by Diamant, Inc., from Chicago, Ill., and that it was misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Twin Bars It's Ahead O'time So Distinctive 5¢ Milk Chocolate Roasted Nuts Net Weight 2 Oz. Diamant Inc. Chicago, Ill."

The article was alleged to be misbranded (a) in that the statement "Net Weight 2 Oz.", borne on the label, was false and misleading and tended to deceive and mislead the purchaser when applied to the packages of a product containing less than 2 ounces; and (b) in that the quantity of the contents of the package was not plainly and conspicuously marked on the outside thereof, since the quantity stated was not correct.

On March 11, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25728. Adulteration and misbranding of Molaska Granul Molasses. U. S. v. 35 Bags of a Product labeled "Molaska Granul Molasses." Default decree of condemnation and destruction. (F. & D. no. 37217. Sample no. 8348-B.)

This case involved an interstate shipment of an article, labeled "Molaska Granul Molasses", which contained ground cacao shells.

On February 15, 1936, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 35 bags of a product, labeled "Molaska Granul Molasses", at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about January 16, 1936, by the Drimolass Refining Corporation, from New York, N. Y., and that it was adulterated and misbranded in violation of the Food and Drugs Act.

The article was alleged to be adulterated (a) in that cacao shells had been mixed and packed with the article so as to lower, reduce, or injuriously affect its quality, and (b) in that cacao shells had been substituted in part for dried molasses, which the article purported to be.

The article was alleged to be misbranded in that the statement "Granul Molasses", borne on the label, was false and misleading and tended to deceive and mislead the purchaser when applied to a product containing cacao shells.

On March 23, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25729. Adulteration and misbranding of tomato juice. U. S. v. 137 Cases and 90 Cases of Canned Tomato Juice. Default decree of condemnation and destruction. (F. & D. nos. 37223, 37224. Sample nos. 49345-B, 49346-B.)

These cases involved interstate shipments of canned tomato juice which contained excessive mold and was in whole or in part decomposed, and the cans of which were short in volume.

On or about February 19, 1936, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 137 cases and 90 cases, respectively, of canned tomato juice at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about September 30 and November 9, 1935, by the Robinson Canning Co., from Siloam Springs,

Ark., and that it was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: "King of Ozarks Brand Tomato Juice Contents 10 Fl. Oz. Packed by Robinson Canning Co. Robinson, Ark."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

The article was alleged to be misbranded (a) in that the statement "Contents 10 Fl. Oz." was false and misleading and tended to deceive and mislead the purchaser; and (b) in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was incorrect.

On March 31, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25730. Adulteration of dried apples. U. S. v. 445 Sacks of Dried Apples. Consent decree of condemnation. Product released under bond for dehydrating. (F. & D. no. 37226. Sample no. 55657-B.)

This case involved an interstate shipment of dried apples which were found to contain excessive moisture.

On or about February 25, 1936, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 445 sacks of dried apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about December 18, 1935, by H. R. Gagg, from Palmyra, N. Y., and that it was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated (a) in that partially evaporated apples had been mixed and packed with the article so as to reduce, lower, or injuriously affect its quality; and (b) in that partially evaporated apples had been substituted in whole or in part for evaporated apples which the article purported to be.

On March 18, 1936, F. J. Van Dewater, claimant, having admitted the allegations of the libel and having consented to a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be dehydrated under the supervision of the Department of Agriculture.

W. R. GREGG, *Acting Secretary of Agriculture.*

25731. Misbranding of apple butter. U. S. v. 70 Cases of Apple Butter. Consent decree of condemnation and forfeiture providing for release of the product under bond for relabeling. (F. & D. no. 37227. Sample no. 47739-B.)

The weight of the contents of the container of this article was erroneously labeled.

On February 21, 1936, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 70 cases of apple butter at Fort Wayne, Ind., alleging that the article had been shipped in interstate commerce, on or about December 2, 1935, by Libby, McNeill & Libby, Chicago, Ill., from Blue Island, Ill., to Fort Wayne, Ind., charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Packed by Libby, McNeill & Libby, Chicago."

Misbranding of the article was charged (a) under the allegations that the label on the jars bore the statement, "Libbys Apple Butter Caramelized Sugar Added Net Weight One Lb. Ten Oz.", that the amount of apple butter by weight contained in each and all of the jars was substantially less in weight than 1 pound 10 ounces, that the said statement was false and misleading and tended to deceive and mislead the purchaser; and (b) that the article was food in package form and the contents thereof was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect, the quantity of the contents being substantially less than the amount declared.

On or about March 4, 1936, consent decree of condemnation and forfeiture was entered, providing for release of the product to the claimant, Libby, McNeill & Libby, for relabeling upon furnishing of bond in the sum of \$500.

W. R. GREGG, *Acting Secretary of Agriculture.*

25732. Misbranding of canned tomatoes. U. S. v. 800 Cases of Canned Tomatoes. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. no. 37228. Sample no. 59161-B.)

This case involved an interstate shipment of canned tomatoes that fell below the standard established by the Department of Agriculture because the product was not normally colored and flavored, the flavor being that of unripe tomatoes rather than the normal flavor of mature tomatoes, and they were not labeled to indicate that they were substandard.

On or about February 24, 1936, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 800 cases of canned tomatoes at Oklahoma City, Okla., alleging that the article had been shipped in interstate commerce on or about December 5 and 12, 1935, and January 20, 1936, by the Austin-Snow Co., from Springfield, Mo., and that it was misbranded in violation of the Food and Drugs Act. The article was labeled: "New Deal Brand Hand Packed Tomatoes. Contents 1 Lb. 3 Oz. Distributed by Austin-Snow Company, Springfield, Missouri."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, in that the canned tomatoes were not normally colored and normally flavored, since the flavor was that of unripe tomatoes rather than the normal flavor of mature tomatoes, and the package or label did not bear a plain and conspicuous statement, as prescribed by the Secretary of Agriculture, indicating that the article fell below such standard.

On March 20, 1936, the Austin-Snow Co. and the Wolfe Brokerage Co., claimants, having admitted the allegations of the libel and consented to a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be relabeled under the supervision of the Department of Agriculture.

W. R. GREGG, *Acting Secretary of Agriculture.*

25733. Misbranding of canned peas. U. S. v. 1,000 Cases of Canned Peas. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. no. 37229. Sample no. 65819-B.)

This case involved an interstate shipment of canned peas represented on the label as "Tender Sweet Peas", but which were Alaska peas of poor quality.

On February 24, 1936, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,000 cases of canned peas at Worcester, Mass., alleging that the article had been shipped in interstate commerce on or about January 13, 1936, by the Melrose Canning Co., from Greenmount, Md., and that it was misbranded in violation of the Food and Drugs Act. The article was labeled: "Royal Worcester Brand Tender Sweet Peas Contents 1 Lb. 4 Oz. New England Greener Supply Co., Worcester, Mass. Distributors."

The article was alleged to be misbranded in that the statement on the label, "Tender Sweet Peas", was false and misleading and tended to deceive and mislead the purchaser when applied to peas that were not tender sweet peas.

On April 1, 1936, Philip D. Gradman and Isadore J. Gradman, doing business as the Melrose Canning Co., Melrose, Md., having appeared as claimants and admitted the allegations of the libel and having consented to a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be relabeled under the supervision of the Department of Agriculture.

W. R. GREGG, *Acting Secretary of Agriculture.*

25734. Adulteration and misbranding of olive oil. U. S. v. 25½ Cases of Olive Oil, and 3 other actions. Default decree of condemnation and destruction. (F. & D. nos. 37292, 37302, 37343, 37416. Sample nos. 29919-B, 52161-B, 52162-B, 56350-B, 62313-B.)

These cases involved interstate shipments of so-called olive oil which contained tea-seed oil, and the bottles of which were short in volume.

On March 4, 1936, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 25½ cases, containing 51 dozen bottles of so-called olive oil, at Butler, Pa.; on March 5, 1936, the United States attorney for the Western District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying

seizure and condemnation of 18 bottles of so-called olive oil at Louisville, Ky.; on March 12, 1936, the United States attorney for the Southern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 367 bottles of so-called olive oil at Houston, Tex.; and on March 24, 1936, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 190 bottles of so-called olive oil at Birmingham, Ala. The libels alleged that the articles had been shipped in interstate commerce on or about August 28 and October 4, 1935, and January 27 and 28 and February 14, 1936, by the De Luca Olive Oil Co., from New York, N. Y., and that they were adulterated and misbranded in violation of the Food and Drugs Act. The bottles containing the article seized at Butler, Pa., were labeled in part: "Clover Farm Brand Pure Imported Olive Oil Net Conts. 6 Ozs. [or "Net Conts. 2 Ozs.]" Clover Farm Stores Distributors National Headquarters Cleveland, Ohio." The article seized at Louisville, Ky., and at Birmingham, Ala., was labeled in part: (Bottle) "Olio D'Oliiva Marca De Luca Brand 6 Fl. Oz."; (bottle cap) "Pure Olive Oil Tested Approved * * * Good Housekeeping Magazine Bureau of Foods De Luca & Co. New York & Genoa." The article seized at Houston, Tex., was labeled in part: (2-ounce bottles) "Pure Olive Oil Net Cont. 2 Fl. Oz. De Luca Brand De Luca Olive Oil Co. Inc. New York, N. Y."; (3-ounce bottles) "Olio D'Oliiva Marca De Luca Brand 3 Fl. Oz."; (bottle caps) "Pure Olive Oil Tested Approved * * * Good Housekeeping Magazine Bureau of Foods De Luca & Co. New York & Genoa."

The articles in all four of the cases were alleged to be adulterated in that tea-seed oil had been mixed and packed with the article so as to reduce or lower its quality or strength, and in that tea-seed oil had been substituted in whole or in part for olive oil, which the product purported to be.

The article seized at Butler, Pa., contained in 6-ounce bottles and 2-ounce bottles, was alleged to be misbranded in that the statement "Pure Imported Olive Oil", appearing on the bottles, was false and misleading and tended to deceive and mislead the purchaser when applied to a product containing tea-seed oil; and the portion of said article contained in the 6-ounce bottles was alleged to be misbranded further in that the statement "Net Conts. 6 Ozs.", appearing on the bottles, was false and misleading and tended to deceive and mislead the purchaser, when applied to a product the bottles of which were short in volume.

The article seized at Louisville was alleged to be misbranded in that the statements, "Olio D'Oliiva * * * De Luca Brand 6 Fl. Oz.", and "Pure Olive Oil", appearing on the bottles, were false and misleading and tended to deceive and mislead the purchaser when applied to a product containing tea-seed oil.

The article seized at Houston and contained in 3-ounce bottles and 2-ounce bottles, was alleged to be misbranded in that the statement, "Olio D'Oliiva * * * De Luca", appearing on the 3-ounce bottles, and the statement, "Pure Olive Oil * * * De Luca", appearing on the 2-ounce bottles, and the statement "Pure Olive Oil", appearing on the bottle [caps] of both sizes, were false and misleading and tended to deceive and mislead the purchaser when applied to a product containing tea-seed oil; and the portion of said article in the 3-ounce bottles was alleged to be misbranded further in that the statement "3 Fl. Oz.", appearing on the bottles, was false and misleading and tended to deceive and mislead the purchaser when applied to a product in bottles that contained less than 3 fluid ounces.

The article seized at Birmingham was alleged to be misbranded in that the statements, "Olio D'Oliiva * * * De Luca 6 Fl. Oz.", appearing on the bottles, and the statement "Pure Olive Oil", appearing on the bottle caps, were false and misleading and tended to deceive and mislead the purchaser when applied to a product containing tea-seed oil and the bottles of which were short in volume.

The articles in all four of the cases were alleged to be misbranded in that they were offered for sale under the name of another article, namely, olive oil.

The articles at Louisville and Birmingham, the portion of the article at Houston that was contained in 3-ounce bottles, and the portion of the article at Butler, Pa., that was contained in 6-ounce bottles, were alleged to be misbranded in that it was food in package form and the quantity of the contents was not

plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On March 26, April 22 and 29, and May 21, 1936, no claimant having appeared, judgments of condemnation were entered and it was ordered that the products be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25735. Misbranding of apples. U. S. v. Otto W. Borden. Plea of nolo contendere. Fine, \$10. (F. & D. no. 35879. Sample nos. 10555-B, 17847-B, 17849-B.)

This case involved an interstate shipment of apples that were below the grade declared on the label.

On September 4, 1935, the United States attorney for the Western District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Otto W. Borden, trading at Front Royal, Va., alleging shipments by the defendant in violation of the Food and Drugs Act as amended, between the dates of September 26 and October 2, 1934, from the State of Virginia into the State of Pennsylvania, of a quantity of apples that were misbranded. The article was labeled in part: "Stayman Winesap Packed By O. W. Borden, Front Royal, Va. U. S. No. 1 2½ Min."

The article was alleged to be misbranded in that the statement "U. S. No. 1", borne on the baskets containing the article, was false and misleading; and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since each of a large number of baskets examined contained apples of a lower grade than declared on the label. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages, since the statement made was incorrect.

On October 28, 1935, defendant entered a plea of nolo contendere and the court imposed a fine of \$10.

W. R. GREGG, *Acting Secretary of Agriculture.*

25736. Adulteration of canned salmon. U. S. v. Alaska Icepak Corporation. Plea of guilty. Fine, \$10 and costs. (F. & D. no. 36966. Sample nos. 37948-B, 27962-B, 37963-B, 37965-B, 37966-B, 37969-B, 37970-B, 37983-B, 37984-B, 37991-B, 38018-B, 38019-B, 38020-B, 38022-B, 40412-B, 40417-B, 40418-B.)

This case involved shipments of cans of salmon that was in part decomposed.

On April 15, 1936, the United States attorney for the third division of the District of Alaska, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Alaska Icepak Corporation, Cordova, Alaska, alleging that on or about June 8, June 17, and July 6, 1935, the defendant had shipped from Alaska into the State of Washington a number of unlabeled cans of salmon, and that the article was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in part of decomposed and putrid animal substance.

On June 23, 1936, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$10 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25737. Adulteration of chili powder and chili pods. U. S. v. 9 Barrels of Chili Powder, and other actions. Default decrees of condemnation and destruction. (F. & D. nos. 36884, 37143, 37156, 37160, 37161, 37168, 37184, 37337. Sample nos. 9428-B, 32463-B, 34560-B, 34769-B, 34770-B, 56026-B, 56171-B, 68176-B.)

These cases involved chili powder and chili pods that contained excessive arsenic and, in one instance, excessive chlorine.

On December 28, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of nine barrels of chili powder at Chicago, Ill.

On February 1, 4, 5, 8, 10, and March 7, 1936, libels were filed against 198 pounds of chili powder at Cincinnati, Ohio; 2 barrels of chili powder at Louisville, Ky; 75 barrels of chili powder and 40 bales of chili pods at East San Pedro, Calif.; 7 barrels of chili powder at Memphis, Tenn.; and 3 barrels of chili powder at Nashville, Tenn. The libels alleged that the articles had been shipped in interstate commerce between the dates of December 2 and December 21, 1935,

by W. H. Booth & Co., in various shipments from Los Angeles, Calif.; Chicago, Ill.; New Orleans, La.; and Santa Ana, Calif., and charged adulteration in violation of the Food and Drugs Act. The chili powder was labeled in part, "Toreador Brand."

The articles were alleged to be adulterated in that they contained an added poisonous and deleterious ingredient, arsenic, and in one lot of the powder, also fluorine, which might have rendered them injurious to health.

On February 25, March 2, 7, 23, and 31, and June 3, 1936, no claimant having appeared, judgments of condemnation were entered and it was ordered that the products be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25738. Adulteration of canned salmon. U. S. v. Washington Fish & Oyster Co., a corporation. Plea of guilty. Fine, \$26 and costs. (F. & D. no. 36946. Sample nos. 38000-B, 40419-B, 40429-B, 40434-B, 40455-B, 40463-B.)

This case involved shipments of canned red salmon that was in part decomposed.

On May 15, 1936, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Washington Fish & Oyster Co., a corporation, Seattle, Wash., alleging that on or about June 23 and July 15, 1935, the defendant had shipped from Port Williams, Territory of Alaska, into the State of Washington a number of unlabeled cans of salmon, and charging that it was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in part of decomposed animal substance.

On June 27, 1936, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of \$26 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25739. Misbranding of salad oil. U. S. v. 176 Cans of Salad Oil. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36862. Sample nos. 44011-B, 44014-B.)

This product consisted essentially of sunflower-seed oil or corn oil, and its label bore statements implying that it was olive oil.

On December 23, 1935, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of numerous cans of salad oil at Providence, R. I., alleging that the article had been shipped in interstate commerce, on or about December 4, 1935, by the Economu-Ritsos Co., from New York, N. Y., into the State of Rhode Island, and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Can) "One Gallon Net Prodotto Garantito Olio Finissimo LaGustosa Brand."

Misbranding of the product was charged under the allegations that the label on the cans bore the statements, to wit, "Olio Finissimo", and "L'Olio che questa latta contiene e di qualita extra fina insuperabile per tavola, cucina, etc."; and that the said statements were false and misleading and tended to deceive and mislead the purchaser when applied to a product consisting essentially of sunflower or corn oil with little or no olive oil, in packages bearing designs of olive branches, in that they implied that the article was olive oil.

On April 28, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25740. Adulteration of dried peaches. U. S. v. 30 Cases of Dried Peaches. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36863. Sample no. 38724-B.)

The article was worm-infested.

On December 21, 1935, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 30 cases of dried peaches at Salt Lake City, Utah, alleging that the article had been shipped in interstate commerce, on or about October 1, 1935, by the California Prune & Apricot Growers Association, from San Jose, Calif., to Salt Lake City, Utah, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Case) "Twenty Five Lbs. Net California Peaches Prepared with Sulphur Dioxide."

Adulteration of the product was charged under the allegation that it consisted wholly or in part of a filthy vegetable substance.

On February 29, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25741. Adulteration and misbranding of blackberry wine. U. S. v. 28 Bottles of Alleged Blackberry Wine. Default decree of condemnation and forfeiture, providing for the delivery of the product to the Secretary of the Treasury for disposal in accordance with law. (F. & D. no. 36864. Sample nos. 51401-B, 51402-B.)

This product was an artificially colored mixture of alcohol and water containing tartaric acid.

On December 26, 1935, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of that District a libel praying seizure and condemnation of a quantity of wine in the District of Columbia, alleging that the article had been shipped in interstate commerce, on or about November 29 and December 6, 1935, by Madera Bonded Wine & Liquor Co., Baltimore, Md., therefrom to the District of Columbia and charging adulteration and misbranding in violation of the Food and Drugs Act. The article consisted of two lots of alleged wine, the bottles thereof being labeled in part: "Gold Stripe American Blackberry Wine"; "Maid of Honor American Blackberry Wine."

Adulteration of the product was charged (a) under the allegation that an artificially colored mixture of alcohol and water containing tartaric acid had been substituted for "American Blackberry Wine"; (b) under the allegation that the product was mixed in a manner whereby inferiority was concealed.

Misbranding of the product was charged (a) under the allegations that the label on the bottles bore the statements, to wit, "Blackberry Wine * * * 12% to 14% Alcohol by Volume * * *" and "Bottled in Bonded U. S. Wine Store Room Md. 4"; that the said statements were false and misleading and tended to deceive and mislead the purchaser, when applied to an artificially colored mixture of alcohol (about 10 percent) and water, containing tartaric acid; and (b) under the allegation that the product was an imitation of and was offered for sale under the distinctive name of another article.

On April 8, 1936, no claimant having appeared, a default decree of condemnation and forfeiture was entered providing for delivery of the product to the Secretary of the Treasury for disposal in accordance with law.

W. R. GREGG, *Acting Secretary of Agriculture.*

25742. Adulteration of canned salmon. U. S. v. 770 Cases of Canned Salmon. Consent decree of condemnation and forfeiture, providing for delivery of the product to the claimant for reconditioning under bond. (F. & D. no. 36865. Sample no. 64939-B.)

Decomposed salmon was present in this product.

On December 23, 1935, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of a quantity of canned salmon at Seattle, Wash., alleging that the article had been shipped in interstate commerce by the Halibut Bay Packing Co., on or about August 24, 1935, from Halibut Bay, Alaska, to Seattle, Wash., and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the product was charged under the allegation that it consisted in whole or in part of a decomposed animal substance.

On January 21, 1936, the product having been claimed by the Halibut Bay Packing Co., a consent decree of condemnation and forfeiture was entered, providing for delivery of the product to the claimant for reconditioning upon giving of bond in the sum of \$1,000.

W. R. GREGG, *Acting Secretary of Agriculture.*

25743. Misbranding of Roquefort Spread. U. S. v. 80 Cartons of Roquefort Spread. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36866. Sample nos. 50299-B, 50610-B.)

The label on the packages of this article bore an erroneous statement regarding the weight of the contents.

On December 23, 1935, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of a quantity of Roquefort

Spread at Jersey City, N. J., alleging that the article had been shipped in interstate commerce, on or about November 28, 1935, by Borden Sales Co., Inc., from Antwerp, N. Y., into the State of New Jersey and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Glass) "Borden's Roquefort Spread Pasteurized Process Cheese 5 Oz. Net"; (lid of glass) "5 Ozs. Net * * * The Borden Sales Company, Inc. New York-Chicago-San Francisco Distributors."

Misbranding of the product was charged (a) under the allegations that the label on the glass and on the lid bore the statement, to wit, "5 Oz. Net"; that the said statement was false and misleading and tended to deceive and mislead the purchaser when applied to a product containing less than 5 ounces; (b) under the allegations that the product was in package form and that the packages bore a statement regarding the quantity of its contents that was incorrect, and that the label failed to bear a plain and conspicuous statement of the quantity of its contents.

On February 7, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25744. Adulteration and misbranding of dates. U. S. v. 448 Cases of Dates. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36867. Sample no. 41310-B.)

This article was worm-infested and its packages were without a declaration of the quantity of the contents.

On December 23, 1935, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of a quantity of dates at St. Paul, Minn., alleging that the article had been shipped in interstate commerce, on or about December 4, 1935, by the National Importing Co., from New York, N. Y., to St. Paul, Minn., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Case) "Yam Nal Repack Sairs Finest Selected Dates Produce of Rasrah Iraq Fresh Sound and Clean Net Weight Lbs."

Adulteration of the article was charged under the allegation that it consisted in whole or in part of a filthy vegetable substance.

Misbranding of the article was charged under the allegation that it was in package form and that its packages failed to bear a plain and conspicuous statement of the quantity of their contents.

On April 4, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25745. Misbranding of apple butter. U. S. v. 60 Cases of Apple Butter. Consent decree of condemnation and forfeiture, providing for delivery of the product to the claimant for relabeling upon furnishing of bond. (F. & D. no. 36870. Sample no. 39346-B.)

The label on the packages of this article bore an incorrect statement regarding the quantity of the contents of the packages.

On December 24, 1935, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of a quantity of apple butter at Detroit, Mich., alleging that the article had been shipped in interstate commerce, on or about October 9, 1935, by Libby, McNeill & Libby Co., Chicago, Ill., therefrom to Detroit, Mich., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Jar) "Libby's Apple Butter Caramelized Sugar Added Net Weight One Lb. Ten Oz."

Misbranding of the article was charged (a) under the allegations that the label bore the statement, to wit, "Net Weight One Pound Ten Oz.", and that the said statement was false and misleading and tended to deceive and mislead the purchaser; (b) under the allegations that the article was in package form, that the statement of the quantity of the contents of the package was incorrect, and that the quantity of the contents of the package was not plainly and conspicuously marked on the outside thereof.

On or about January 20, 1936, a consent decree of condemnation and forfeiture was entered, providing for delivery of the product to the claimant, Libby, McNeill & Libby Co., Detroit, Mich., for relabeling, upon furnishing of bond in the sum of \$200.

W. R. GREGG, *Acting Secretary of Agriculture.*

25746. Misbranding of peas. U. S. v. 100 Cases of Canned Peas. Default decree of condemnation and forfeiture, providing for delivery of the product to a charitable institution. (F. & D. no. 36871. Sample no. 50537-B.)

This product contained an excessive proportion of mature peas, and was not labeled to indicate that it was substandard.

On December 28, 1935, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 100 cases of canned peas at New York City, N. Y., alleging that the article had been shipped in interstate commerce on or about October 4, 1935, by the Stevenson-Mairs Co., from Lewes, Del., to New York City, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Cans) "Globe Brand Early June Peas Contents 1 Pound 4 Ounces Packed By Talbot Packing & Preserving Co., P. O. Easton, Md."

Misbranding of the article was charged under the allegations that it was canned food, that it contained an excessive number of mature peas, that it fell below the standard of quality and condition promulgated by the Secretary of Agriculture, and that its package or label did not indicate that it fell below such standard.

On February 11, 1936, no claimant having appeared, a default decree of condemnation and forfeiture was entered, providing that the United States marshal deliver the seized goods to a charitable institution.

W. R. GREGG, *Acting Secretary of Agriculture.*

25747. Adulteration of canned salmon. U. S. v. 392 Cartons of Canned Salmon. Consent decree of condemnation and forfeiture, providing for release of the product to the claimant for segregation and reconditioning under bond. (F. & D. no. 36875. Sample nos. 54596-B, 64941-B.)

Decomposed salmon was present in this product.

On December 26, 1935, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 392 cartons of canned salmon at Seattle, Wash., alleging that the article had been shipped in interstate commerce by the Annette Island Canning Co., on or about September 6, 1935, from Metlakatla, Alaska, to Seattle, Wash., and charging adulteration in violation of the Food and Drugs Act. The cartons containing this product were unlabeled but the cases were marked "3S.AP/S-."

Adulteration of the product was charged under the allegation that it consisted in whole or in part of a decomposed animal substance.

On January 8, 1936, the Annette Island Canning Co., claimant, consenting, a decree of condemnation and forfeiture was entered, providing for release of the product to the claimant for segregation and reconditioning upon furnishing bond in the sum of \$500.

W. R. GREGG, *Acting Secretary of Agriculture.*

25748. Adulteration of canned salmon. U. S. v. 89 Cases of Canned Salmon. Default decree of condemnation and destruction. (F. & D. no. 36876. Sample nos. 54599-B, 64945-B.)

This case involved an interstate shipment of canned salmon that was in part decomposed.

On or about December 26, 1935, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 89 cases of unlabeled pink salmon at Seattle, Wash., alleging that the article was shipped on or about June 29, 1935, by the Glacier Sea Foods Co., from Cordova, Alaska, and charging that the article was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On June 10, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25749. Misbranding of canned peas. U. S. v. 29 Cases of Canned Peas. Default decree of condemnation. Product delivered to a charitable institution. (F. & D. no. 36902. Sample no. 54234-B.)

This case involved an interstate shipment of canned peas that fell below the standard established by this Department because of the presence of an excessive number of mature peas and that were not labeled to indicate that they were substandard.

On December 30, 1935, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 29 cases, more or less, each containing 24 cans of peas, at Camden, N. J., alleging that the article was shipped in interstate commerce on or about December 4, 1935, by G. L. Webster Co., Inc., from Cheriton, Va., and charging that the article was misbranded in violation of the Food and Drugs Act as amended. The article was labeled in part: "Webster's Early June Peas * * * Packed by G. L. Webster Co., Inc., Cheriton, Va."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food because of the presence of an excessive number of mature peas, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On July 24, 1936, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

W. R. GREGG, *Acting Secretary of Agriculture.*

25750. Adulteration and misbranding of alleged blackberry-type wine. U. S. v. 3 Cases, et al., of Alleged Blackberry-Type Wine. Decree of condemnation and forfeiture, providing for delivery of the product to the Secretary of the Treasury for disposal in accordance with law. (F. & D. 36883. Sample no. 51162-B.)

This product was an artificially colored mixture of alcohol and water containing tartaric acid.

On December 26, 1935, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of the District a libel praying seizure and condemnation of 19 cases of alleged blackberry-type wine in the District of Columbia, alleging that the article had been shipped in interstate commerce, on or about November 6 and December 11, 1935, by the Monarch Wine Co. Inc., New York, N. Y., into the District of Columbia and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled: (Case) "Alcoholic Contents 12 to 14% by volume Ess-Kay B and Blackberry type Wine Bottled for Samuel Kauffman Washington, D. C. Monarch Wine Co., Inc. New York, N. Y."

Adulteration of the article was charged (a) under the allegation that an artificially colored mixture of alcohol and water containing tartaric acid had been substituted for "Blackberry Type Wine"; (b) under the allegation that it was mixed in a manner whereby inferiority was concealed.

Misbranding of the article was charged (a) under the allegation that there appeared upon the bottle label the statement, to wit, "Blackberry type Wine"; (b) that the said statement was false and misleading and tended to deceive and mislead the purchaser when applied to a mixture of alcohol and water containing tartaric acid; (c) under the allegation that the article was an imitation of and was offered for sale under the distinctive name of another article.

On April 8, 1936, no claimant having appeared, a default decree of condemnation and forfeiture was entered, providing for delivery of the product to the Secretary of the Treasury for disposal in accordance with law.

W. R. GREGG, *Acting Secretary of Agriculture.*

25751. Adulteration of dressed poultry. U. S. v. 4 Barrels of Dressed Poultry. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36885. Sample no. 48202-B.)

Decomposed poultry was present in this shipment which was a product of diseased animals.

On December 28, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of quantities of dressed poultry at Chicago, Ill., alleging that the article had been shipped in interstate

commerce, on or about December 16, 1935, by the Nevada Poultry Co., from Nevada, Iowa, to Chicago, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Barrel) "4426—228 229 21 207 Chicks."

Adulteration of the article was charged under the allegation (a) that it consisted in whole or in part of a decomposed animal substance; and (b) under the allegation that it was a product of diseased animals.

On March 2, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25752. Adulteration of dressed poultry. U. S. v. 12 Boxes, et al., of Dressed Poultry. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36886. Sample nos. 48149-B, 48150-B, 48201-B.)

Decomposed poultry was present in this shipment which was a product of diseased animals.

On December 23, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 12 boxes and 5 barrels of dressed poultry at Chicago, Ill., alleging that the article had been shipped in interstate commerce, on or about December 13, 1935, by the Independence Produce Co., from Independence, Iowa, to Chicago, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Card tacked on barrel or box) "'Unclassified' Dressed Poultry. The poultry in this package must be inspected by an accredited inspector before being offered for sale, and only that part of it which is approved by such inspector shall be permitted to move into consumptive channels. * * * From Independence Produce Co., Independence, Iowa. * * * 29 SY 80 26 HY 75 Member Institute of American Poultry Industries 255—16 238."

Adulteration of the article was charged (a) under the allegation that it consisted in whole or in part of a decomposed animal substance; (b) under the allegation that it was the product of diseased animals.

On February 28, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25753. Adulteration and misbranding of apple butter. U. S. v. 14 Dozen Bottles of Apple Butter. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36887. Sample no. 55379-B.)

This product was insect-infested and was made of dried apples.

On January 4, 1936, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 14 dozen bottles of apple butter at Chicago, Ill., alleging that the article had been shipped in interstate commerce by Holsum Products, on or about October 3, 1935, from Cleveland, Ohio, to Chicago, Ill., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Bottle) "Cyrilla Brand Net Wt. 10½ Oz. Pure Apple Butter."

Adulteration of the product was charged under the allegation that it consisted in whole or in part of a filthy vegetable substance.

Misbranding of the product was charged (a) under the allegations that the label bore the statement, to wit, "Pure Apple Butter", that the said statement was false and misleading and tended to deceive and mislead the purchaser when applied to dried apple butter; (b) under the allegation that the product was offered for sale under the distinctive name of another article.

On March 2, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25754. Adulteration of tomato ketchup. U. S. v. 6 Cases of Tomato Ketchup. Default decree of condemnation and destruction. (F. & D. no. 36893. Sample no. 44041-B.)

This case involved tomato ketchup that contained excessive mold.

On December 27, 1935, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of six cases of tomato ketchup at Brockton, Mass., alleging that the article had been shipped in

interstate commerce on or about September 30, 1935, by the Brockton Preserving Co. from Brockton, N. Y., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Brockton Brand Tomato Ketchup * * * Brockton Preserving Co., Brockton, N. Y."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On January 29, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25755. Adulteration of cider. U. S. v. 5 Barrels of Cider. Default decree of condemnation, forfeiture, and destruction of cider, and providing for return of empty barrels to consignee. (F. & D. no. 36899. Sample no. 54423-B.)

This product contained excessive arsenic and lead.

On December 28, 1935, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of five barrels of cider at Seattle, Wash., alleging that the article had been shipped in interstate commerce, on or about November 2, 1934, from Portland, Oreg., to Seattle, Wash., and charging adulteration in violation of the Food and Drugs Act. The shipment was made by the Knight Packing Co., Portland, Oreg. The article was labeled in part: (Barrels) "Richardson and Holland 518-1st Ave So., Seattle Wash. Knight Pkg Co Portland Ore. Boiled Cider."

Adulteration of the article was charged under the allegation that it contained added poisonous and deleterious ingredients, to wit, arsenic and lead, which might have rendered it harmful to health.

On February 29, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction of the cider was entered, the decree providing for the return of the empty barrels to the consignee.

W. R. GREGG, *Acting Secretary of Agriculture.*

25756. Adulteration and misbranding of cocoa. U. S. v. 10 Cases and 20 Cartons of Cocoa. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36904. Sample nos. 43985-B, 43986-B.)

This product was deficient in fat and contained excessive lead.

On January 2, 1936, the United States attorney for the District of Maine, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 cases and 20 cartons of cocoa at Portland, Maine, alleging that the article had been shipped in interstate commerce, on or about October 4 and October 10, 1935, by the Massachusetts Chocolate Co., from Boston, Mass., into the State of Maine, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Packages) "Wan-Eta Cocoa One Pound Net Wan-Eta Breakfast Cocoa * * * Manufactured by The Massachusetts Chocolate Company Boston, Mass."

Adulteration of the article was charged (a) under the allegation that a product deficient in fat had been substituted for breakfast cocoa, which should contain not less than 22 percent of cacao fat; (b) under the allegation that the article contained an added poisonous and deleterious ingredient, to wit, lead, which might have rendered it injurious to health.

Misbranding of the article was charged under the allegation that there appeared on the label the statement, "Breakfast Cocoa"; that the said statement was false and misleading and tended to deceive and mislead the purchaser when applied to cocoa containing less than 22 percent of cacao fat.

On March 11, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25757. Adulteration of tomato puree. U. S. v. 446 Cases of Tomato Puree. Default decrees of condemnation and destruction. (F. & D. no. 36906. Sample no. 55411-B.)

This case involved a shipment of tomato puree that contained excessive mold.

On January 6, 1936, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 446 cases of tomato puree at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about December 9, 1935, by the Distribution Terminal & Cold Storage Co.,

from Cleveland, Ohio, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On March 2, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25758. Adulteration of cheese. U. S. v. 62 Cases of Limburger Spread. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36907. Sample no. 19085-B.)

This product contained portions of the bodies of flies.

On January 8, 1936, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 62 cases of Limburger Spread at Chicago, Ill., alleging that the article had been shipped in interstate commerce, on or about November 18, 1935, by the Borden Sales Co., from Buffalo, N. Y., to Chicago, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Jar) "Borden's Buffalo Brand Limburger Spread Pasteurized Process Cheese Made In New York State Net Wt Six Oz Made For Borden Quality Inc By Borden Cheese Co Inc * * * Borden's Buffalo Brand Limburger Spread New York State Cheese Spreads Like Butter Net Wt Six Oz Made By Hasselbeck Cheese Co."

Adulteration of the article was charged under the allegation that it consisted wholly or in part of a filthy animal substance.

On February 28, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25759. Adulteration of cheese. U. S. v. 2 Cases of Limburger Cheese. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36910. Sample no. 55403-B.)

This product contained portions of the bodies of flies, also nondescript dirt.

On January 8, 1936, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two cases of Limburger cheese at Chicago, Ill., alleging that the article had been shipped in interstate commerce, on or about November 21, 1935, by the Magnolia Cheese Co., from Brodhead, Wis., to Chicago, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was unlabeled.

Adulteration of the product was charged under the allegation that it was sold and shipped as Limburger cheese; and that it consisted wholly or in part of a filthy animal substance.

On March 2, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25760. Misbranding of canned tomatoes. U. S. v. 993 Cases of Canned Tomatoes. Consent decree of condemnation and forfeiture providing for release of the product to the claimant for relabeling under the supervision of the Food and Drug Administration. (F. & D. no. 36915. Sample no. 49172-B.)

This product was substandard because the tomatoes were not normally colored.

On January 7, 1936, the United States attorney for the Northern District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 993 cases of canned tomatoes at Tulsa, Okla., alleging that the article had been shipped in interstate commerce, on or about October 31, 1935, by the Huntsville Canning Co., Springdale, Ark., to Tulsa, Okla., and charging misbranding in violation of the Food and Drugs Act. The article was labeled: (Can) "Red and Ripe Brand Tomatoes Contents 6 Lbs. 6 Ozs. Packed by Huntsville Canning Company Huntsville, Ark."

Misbranding of the article was charged under the allegations that it was canned food, that the tomatoes were not normally colored, that the article fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, and that its package or label did not bear

the plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that such canned food fell below such standard.

On January 13, 1936, the Hale-Halsell Co., Tulsa, Okla., having claimed the product, and consenting, a decree of condemnation and forfeiture was entered, providing for release of the product to the said company for relabeling under the supervision of the Food and Drug Administration.

W. R. GREGG, *Acting Secretary of Agriculture.*

25761. Misbranding of peanut butter. U. S. v. 100 Cartons of Peanut Butter. Consent decree of condemnation and forfeiture, providing for release of the product to the claimant for reconditioning and relabeling. (F. & D. no. 36916. Sample no. 53701-B.)

The weight of the contents of the jars containing this product was less than that represented on the jar labels.

On January 7, 1936, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 100 cartons of peanut butter at Seattle, Wash., alleging that the article had been shipped in interstate commerce by the Martin Peanut Products Corporation on or about November 19, 1935, from Brooklyn, N. Y., to Seattle, Wash., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Cartons) "Reliance Brand Peanut Butter Net Wt Sixteen Oz Packed For Reliance Pure Foods Seattle USA."

Misbranding of the article was charged (a) under the allegations that there appeared on the carton label the statement, to wit, "Net Wt 16 Oz", and that the said statement was false and misleading and tended to deceive and mislead the purchaser; (b) under the allegation that the product was in package form and the quantity of the contents of the package was not plainly and conspicuously marked on the outside thereof.

On February 11, 1936, the Martin Peanut Products Corporation, claimant, consenting, a decree of condemnation and forfeiture was entered, providing for the release of the product to the claimant for reconditioning and relabeling, upon furnishing bond in the sum of \$700.

W. R. GREGG, *Acting Secretary of Agriculture.*

25762. Adulteration of walnut meats. U. S. v. 11 Cartons of Walnut Meats. Judgment permitting release of product under bond. (F. & D. no. 36917. Sample no. 66620-B.)

This case involved a shipment of walnut meats that were in part wormy, moldy, and rancid.

On January 7, 1936, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 11 cartons of walnut meats at Idaho Falls, Idaho, alleging that the article had been shipped in interstate commerce on or about November 2, 1935, by the Symms Utah Grocery Co., from Salt Lake City, Utah, and charging adulteration in violation of the Food and Drugs Act. The product was originally shipped to the Symms Utah Grocery Co., by the Los Angeles Nut House, Los Angeles, Calif. The article was labeled in part: "Baker Special, Symms Utah Groc. Co., * * * From L. A. Nut House, Los Angeles, Calif."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, and putrid vegetable substance.

On February 5, 1936, the Los Angeles Nut House, Los Angeles, Calif., having appeared as claimant and having consented to the entry of a decree, judgment was entered permitting release of the product under bond, conditioned that it should not be disposed of in violation of the Federal Food and Drugs Act.

W. R. GREGG, *Acting Secretary of Agriculture.*

25763. Misbranding of canned tomatoes. U. S. v. 967 Cases of Canned Tomatoes. Product adjudged misbranded and released under bond for relabeling. (F. & D. no. 36918. Sample no. 49170-B.)

This product was substandard, because it did not consist of whole or large pieces of tomatoes, was not normally colored, and it was not labeled to indicate that it was substandard.

On or about January 7, 1936, the United States attorney for the Northern District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 967 cases

of canned tomatoes at Tulsa, Okla., alleging that the article had been shipped in interstate commerce on or about November 23, 1935, by the Charles S. Hulsey Canning Co., from Green Forest, Ark., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Raider Tomatoes * * * distributors Griffin Grocery Company * * * Muskogee, Okla."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department, indicating that it fell below such standard.

On January 13, 1936, the Griffin-Goodner Grocery Co., Tulsa, Okla., having appeared as claimant, judgment was entered finding the product misbranded and ordering that it be released under bond, conditioned that it be relabeled under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

25764. Adulteration of cranberries. U. S. v. 160 Boxes of Cranberries. Decree of condemnation and destruction. (F. & D. no. 36926. Sample no. 40866-B.)

This case involved a shipment of cranberries that were in part decomposed. On January 9, 1936, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 160 boxes of cranberries at Astoria, Oreg., alleging that the article had been shipped in interstate commerce on or about November 16 and November 20, 1935, by Rolla Parrish, from Long Beach, Wash., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in part of a decomposed vegetable substance.

On February 11, 1936, no claim having been entered for the cranberries, judgment of condemnation was entered and it was ordered that they be destroyed, and that the boxes be returned to the owner.

W. R. GREGG, *Acting Secretary of Agriculture.*

25765. Adulteration of dried peaches. U. S. v. 250 Cases of Dried Peaches. Decree of condemnation. Product released under bond for segregation and destruction of unfit portion. (F. & D. no. 36929. Sample no. 46234-B.)

This case involved dried peaches that were in part insect-infested and dirty.

On January 10, 1936, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 250 cases of dried peaches at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about December 17, 1935, by Guggenlime & Co., from San Francisco, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Waldorf Brand California Choice Re-cleaned Cling Peaches Guggenlime and Company California."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On March 2, 1936, Guggenlime & Co. having appeared as claimant, and having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the unfit portion be segregated and destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25766. Misbranding of canned tomatoes. U. S. v. 1,049 Cases of Canned Tomatoes. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 36931. Sample no. 10041-B.)

This case involved canned tomatoes that were substandard and were not labeled to indicate that fact.

On January 14, 1936, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,049 cases of canned tomatoes at Dallas, Tex., alleging that the article had been shipped in interstate commerce on or about October 5, 1935, by the Lick Branch Canning Co., from Green Forest, Ark., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Concho hand-packed tomatoes * * * distributed by Waples Platter Company, Texas."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since it did not consist of whole or large pieces and was not normally colored, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department, indicating that it fell below such standard.

On March 16, 1936, the Lick Branch Canning Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be relabeled.

W. R. GREGG, *Acting Secretary of Agriculture.*

25767. Adulteration of canned salmon. U. S. v. Frank E. McConaghy. Plea of guilty. Fine, \$25 and costs. (F. & D. no. 36934. Sample nos. 40480-B, 40501-B.)

This case was based on an interstate shipment of canned salmon, samples of which were found to be putrid, tainted, or stale.

On March 11, 1936, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Frank E. McConaghy, alleging shipment by said defendant in violation of the Food and Drugs Act on or about August 7, 1935, from Kukak Bay, Alaska, into the State of Washington, of a quantity of canned salmon which was adulterated.

The article was alleged to be adulterated in that it consisted in part of a decomposed and putrid animal substance.

On March 27, 1936, the defendant entered a plea of guilty and the court imposed a fine of \$25 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25768. Adulteration of canned salmon. U. S. v. Gus Strand and Roy Jensen (Strand-Jensen Fisheries). Plea of guilty. Fine, \$1 and costs. (F. & D. no. 36935. Sample nos. 40488-B, 40495-B.)

This case was based on an interstate shipment of canned salmon, samples of which were found to be tainted or stale.

On January 27, 1936, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Gus Strand and Roy Jensen, copartners trading as the Strand-Jensen Fisheries, alleging shipment by said defendants in violation of the Food and Drugs Act, on or about August 10, 1935, from Cordova, Alaska, into the State of Washington, of a quantity of canned salmon which was adulterated. A portion of the article was labeled: "Bay Beauty Brand * * * Salmon * * * Packed by Washington Fish & Oyster Co. Seattle U. S. A." The remainder of the article was unlabeled.

The article was alleged to be adulterated in that it consisted in part of a decomposed animal substance.

On February 29, 1936, the defendants entered a plea of guilty and the court imposed a single fine of \$1 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25769. Adulteration of crab meat. U. S. v. Isaac T. Tyler and William J. Adams (I. T. Tyler & Co.). Pleas of nolo contendere. Fines, \$100 and costs. (F. & D. no. 36956. Sample nos. 27642-B, 27646-B, 42105-B, 42107-B).

This case involved shipments of crab meat that contained fecal *Bacillus coli*, evidencing the presence of filth.

On March 11, 1936, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Isaac T. Tyler and William J. Adams, a partnership trading as I. T. Tyler & Co., Crisfield, Md., alleging shipment by said defendants in violation of the Food and Drugs Act, on or about July 22, July 25, and July 26, 1935, from the State of Maryland into the State of Pennsylvania, and on or about July 25, 1935, from the State of Maryland into the State of New Jersey, of quantities of crab meat that was adulterated.

The article was alleged to be adulterated in that it consisted in part of a filthy animal substance, due to pollution by fecal *Bacillus coli*.

On March 27, 1936, the defendants entered pleas of nolo contendere and the court imposed fines totaling \$100 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25770. Adulteration of butter. U. S. v. Milbank Creamery Corporation. Plea of guilty. Fine, \$50 and costs. (F. & D. no. 36961. Sample no. 41231-B.)

This case involved an interstate shipment of butter that was deficient in milk fat.

On March 31, 1936, the United States attorney for the District of South Dakota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Milbank Creamery Corporation, Milbank, S. Dak., alleging that on or about October 11, 1935, said defendant had shipped from the State of South Dakota into the State of Minnesota a quantity of butter, and that the article was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a substance, a product deficient in milk fat in that it contained less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat, as required by the act of March 4, 1923, which the article purported to be.

On April 8, 1936, plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$50 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25771. Adulteration and misbranding of butter. U. S. v. Charles M. Sanford (Sheldon Creamery). Plea of guilty. Fine, \$50. (F. & D. no. 36964. Sample nos. 30576-B, 41097-B.)

This case was based on an interstate shipment of butter that contained less than 80 percent of milk fat.

On March 2, 1936, the United States attorney for the Western District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Charles M. Sanford, trading as the Sheldon Creamery, Sheldon, Wis., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about September 17, 1935, from the State of Wisconsin into the State of New York, of a quantity of butter that was adulterated and misbranded.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat, as required by the act of Congress of March 4, 1923, which the article purported to be.

Misbranding was alleged for the reason that the statement "Butter", borne on a tub containing the article, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since it was not butter as defined and required by law, in that it contained less than 80 percent by weight of milk fat.

On March 18, 1936, the defendant entered a plea of guilty and the court imposed a fine of \$50.

W. R. GREGG, *Acting Secretary of Agriculture.*

25772. Misbranding of apple butter. U. S. v. Libby, McNeill & Libby, a corporation. Plea of guilty. Fine, \$50 and costs. (F. & D. no. 36997. Sample nos. 39346-B, 41286-B, 47739-B.)

This case involved shipments of apple butter that was short in weight.

On May 1, 1936, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Libby, McNeill & Libby, a corporation, trading at Blue Island, Ill., alleging that between the dates of October 9 and December 2, 1935, the said defendant had shipped in various shipments from the State of Illinois into the States of Michigan and Indiana, a number of jars in cases of apple butter, and that the article was misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Libby's Apple Butter Caramelized Sugar Added Net Weight 1 Lb. 10 Oz. Packed By Libby, McNeill & Libby Chicago Made in U. S. A."

The article was alleged to be misbranded in that the statement "Net Weight 1 Lb. 10 Oz." was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since each of a large number of jars examined contained less than declared on the label. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages, since the statement made was incorrect.

On May 12, 1936, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$50 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25773. Adulteration of dressed poultry. U. S. v. Nevada Poultry Co. Plea of nolo contendere. Fine, \$10 and costs. (F. & D. no. 37004. Sample no. 48202-B.)

This case was based on an interstate shipment of dressed poultry which was found to be in part diseased, decomposed, and unfit for food.

On April 28, 1936, the United States attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Nevada Poultry Co., a corporation, Nevada, Iowa, charging shipment by said corporation, in violation of the Food and Drugs Act, on or about December 16, 1935, from the State of Iowa into the State of Illinois, of a quantity of dressed poultry which was adulterated.

The article was alleged to be adulterated in that it consisted in part of a decomposed animal substance, in that it consisted in part of animals unfit for food, and in that it was in part the product of diseased animals some of which apparently had died otherwise than by slaughter.

On April 29, 1936, a plea of nolo contendere was entered on behalf of the defendant corporation, and the court imposed a fine of \$10 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25774. Adulteration of walnut meats. U. S. v. 50 Cartons of Walnut Meats. Consent decree of condemnation. Product released under bond for reconditioning. (F. & D. no. 37067. Sample no. 53715-B.)

This case involved an interstate shipment of walnut meats examination of which showed the presence of moldy, wormy, and rancid or decomposed meats.

On January 14, 1936, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 50 cartons of walnut meats at Seattle, Wash., alleging that the article had been shipped in interstate commerce, on or about December 24, 1935, by the Los Angeles Nut House, from Los Angeles, Calif., and that it was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "25 Lbs. Net Weight L. A. Nut House 722 Market St. Los Angeles Standard Amber Walnut Meats * * * Crescent Mfg. Co. Seattle Washn."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On February 11, 1936, the Los Angeles Nut House, Los Angeles, Calif., claimant, having admitted the allegations of the libel and having consented to a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that the product be reconditioned.

W. R. GREGG, *Acting Secretary of Agriculture.*

25775. Adulteration of canned peas. U. S. v. 1,279 Cases of Canned Peas. Consent decree of condemnation. Product released under bond for segregation and destruction of decomposed portion. (F. & D. no. 37068. Sample nos. 59276-B, 59291-B.)

This case involved an interstate shipment of canned peas that were found to be in part decomposed.

On January 13, 1936, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,279 cases of canned peas at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce, on or about September 6, 1935, by the Smith Canning Co., from Brigham City, Utah, and that it was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On March 13, 1936, the Smith Canning Co., Ogden, Utah, claimant, having admitted the allegations of the libel and having consented to a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the decomposed portion be segregated and destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25776. Misbranding and alleged adulteration of macaroni products. U. S. v. 1,000 Cases of Macaroni Products. Consent decree of condemnation and forfeiture for misbranding, providing for release of the product to the claimant for relabeling. (F. & D. no. 37076. Sample no. 44722-B.)

It was charged that this product was a substitute for what it purported to be and that its label bore an erroneous statement concerning an essential ingredient.

On or about January 16, 1936, the United States attorney for the Western District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,000 cases of macaroni products at Louisville, Ky., alleging that the article had been shipped in interstate commerce on or about January 4, 1936, from New Cumberland, Pa., to Louisville, Ky., and charging adulteration and misbranding in violation of the Food and Drugs Act. The shipment in question was a returned shipment to the original consignee, namely, the Kentucky Macaroni Co., Louisville, Ky. The article was labeled in part: (Case) "Okay Brand Macaroni Products Nothing Cheap but the Price Kentucky Macaroni Co., Louisville, Ky Made from hard wheat flour Net weight 20 Lbs."

Adulteration of the product was charged under the allegation that a substance containing an excessive amount of ash was substituted for what the product purported to be, namely, macaroni made from hard wheat flour.

Misbranding of the product was charged under the allegations that the label bore the statement, "Macaroni * * * Nothing Cheap But the Price Made from Hard Wheat Flour", and that the said statement was false and misleading and tended to deceive and mislead the purchaser.

On March 13, 1936, the Kentucky Macaroni Co., Louisville, Ky., having appeared as claimant, a consent decree of condemnation and forfeiture for misbranding only was entered, providing for release of the product to the claimant for relabeling.

W. R. GREGG, *Acting Secretary of Agriculture.*

25777. Misbranding of canned peas. U. S. v. 24 Cases and 19 Cases of Canned Peas. Default decree of condemnation and destruction. (F. & D. no. 37096. Sample nos. 54241-B, 54242-B.)

This case involved an interstate shipment of canned peas that fell below the standard established by the Department of Agriculture, because of the presence of an excessive proportion of ruptured peas, and the product was not labeled to indicate that it was substandard.

On January 22, 1936, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 24 cases and 19 cases of canned peas at Shenandoah, Pa., alleging that the article had been shipped in interstate commerce, on or about July 6, 1934, by Howard E. Jones & Co., from Baltimore, Md., and that it was misbranded in violation of the Food and Drugs Act as amended. The article in the lot of 24 cases was labeled in part: "Farm Queen Brand Early Variety Size No. 3 Small May Peas Contents 1 Lb. 4 Oz. Distributed by Wm. Numsen & Sons, Inc. Baltimore, Md." The article in the lot of 19 cases was labeled in part: "Fedora Brand First Quality Garden Run Peas Contents 1 Lb. 4 Oz. Guaranteed to comply with the National and State pure food laws * * * Packed by Fredonia Preserving Co. Main Office Fredonia, Chautauqua Co. N. Y."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On February 27, 1936, no claimant having appeared, judgment of condemnation was entered, and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25778. Misbranding of canned peas. U. S. v. 16 Cases of Canned Peas. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. no. 37103. Sample no. 67603-B.)

This case involved an interstate shipment of canned peas which fell below the standard established by the Department of Agriculture because of the presence of an excessive proportion of ruptured peas and because the liquor was not reasonably clear, and the product was not labeled to indicate that it was substandard.

On January 23, 1936, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 16 cases of canned peas at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce, on or about November 25 and 30, 1935, by Howard E. Jones & Co., from Baltimore, Md., and that it was misbranded in violation of the Food and Drugs Act as amended. The article was labeled: "Furnace Brand Early June Peas Contents 1 Lb. 3 Oz. Distributed by W. T. Onley Canning Co., Girdletree, Md."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On February 5, 1936, the W. T. Onley Canning Co., claimant, having admitted the allegations of the libel and having consented to a decree, judgment of condemnation was entered, and it was ordered that the product be released under bond conditioned that the product be relabeled under the supervision of the Department of Agriculture.

W. R. GREGG, *Acting Secretary of Agriculture.*

25779. Adulteration of cheese. U. S. v. 5 Wheels and 8 Wheels of Swiss Cheese. Consent decree of condemnation. Product released under bond for processing. (F. & D. nos. 37105, 37116. Sample nos. 48215-B, 48217-B.)

These cases involved interstate shipments of cheese which was found to be deficient in fat.

On January 28 and 29, 1936, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court two libels praying seizure and condemnation, in one case, of five wheels, and in the other case, of eight wheels, of cheese, at Chicago, Ill., alleging that the article had been shipped in interstate commerce, in one case on or about November 15, 1935, by Jacob Mueller, from Haugen, Wis., and in the other case on or about November 30, 1935, by Carl Marty & Co., from Monroe, Wis., and that it was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a substance deficient in fat had been substituted in whole or in part for the article.

On April 23, 1936, C. E. Zuercher, Chicago, Ill., having appeared as claimant and admitted the allegations of the libels and the actions having been consolidated for the purpose, a judgment of condemnation was entered, and it was ordered that the product be released under bond conditioned that it be processed under supervision of the Department of Agriculture.

W. R. GREGG, *Acting Secretary of Agriculture.*

25780. Misbranding of maple sirup. U. S. v. 151 Cases of Maple Sirup. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. 37106. Sample no. 55576-B.)

This case involved an interstate shipment of maple sirup, the cans of which contained less than the weight represented on the label.

On January 28, 1936, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 151 cases of maple sirup at Chicago, Ill., alleging that the article had been shipped in interstate commerce, on or about August 29, 1935, by the Vermont Maple Cooperative, Inc., from Essex Junction, Vt., and that it was misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Net Wt Eleven Ozs. Co-Op 100% Pure Vermont Maple Sap Sirup * * * Vermont Maple Co-Operative, Inc., Essex Junction, Vt."

The article was alleged to be misbranded in that the statement "Net Wt. 11 Ozs.", borne on the label, was false and misleading and tended to deceive and mislead the purchaser, and in that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was incorrect.

On February 18, 1936, the Great Atlantic & Pacific Tea Co., Chicago, Ill., claimant, having admitted the allegations of the libel and consented to a decree, judgment of condemnation was entered, and it was ordered that the product

be released under bond conditioned that it be relabeled under the supervision of the Department of Agriculture.

W. R. GREGG, *Acting Secretary of Agriculture.*

25781. Misbranding and alleged adulteration of whisky. U. S. v. 200 Cases of Whisky, et al. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. no. 37110. Sample nos. 10193-B to 10196-B, incl.)

This case involved an interstate shipment of imitation whisky which was labeled "whiskey", certain lots of which were short in volume.

On January 24, 1936, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 200 cases, more or less, each containing half-pint bottles; 225 cases, more or less, each containing pint bottles; and 40 cases, more or less, each containing quart bottles; of a product labeled in part "Seaboard Whiskey, bottled by National Wholesale Liquor Co., Baltimore, Md., Ninety proof"; and 175 cases, more or less, each containing pint bottles, of a product labeled in part, "Royal Hunt Whiskey, bottled by National Wholesale Liquor Company, Baltimore, Md., eighty proof", at Fort Worth, Tex., shipped on or about December 14, 1935, alleging that the article had been shipped in interstate commerce by the National Wholesale Liquor Co., from Baltimore, Md., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that imitation whisky had been substituted for said article.

Misbranding was alleged for the reason that the name "whiskey" (on said labels) was false and misleading and tended to deceive and mislead the purchaser when applied to imitation whisky, and for the further reason that the product contained in said bottles and containers was an imitation of and offered for sale under the distinctive name of another article, namely, "Whiskey." Misbranding was also alleged, in case of food, in that the statements on the Internal Revenue seal, that is, "½ pint" and "1 pint", respectively, were false and misleading and tended to deceive and mislead the purchaser for the reason that said containers or bottles of said product contained less than one-half pint and 1 pint, respectively.

Misbranding was alleged for the further reason, in the case of food, in that said product was food in package form and that the quantity of contents of said package was not plainly and conspicuously marked on the outside of the package, there being in truth and in fact less of said product contained in such package or container than was marked on the label.

On or about March 23, 1936, the Union Bank & Trust Co., having a lien upon the article, and the Midwest Wholesale Drug Co., the consignee of said article, having appeared as claimants, and the case having come on for hearing before the court, judgment of condemnation was entered and the article was released under bond conditioned that it be relabeled so that the word "blended" should appear immediately above or immediately below the word "whiskey" in letters of equal size with those in the word "whiskey", and upon the further condition that a label be placed upon the back of said bottle bearing the statement that the product contained therein was manufactured according to "Formula 8", which should be set out in full as follows: "Cane spirits are reduced to proof, placed in processing tanks, treated with chips, ozone, and heated until they gather up all congeners of straight whiskey."

The court ordered the release of the article upon the further condition that labels should be placed on the pint and half-pint containers stating truly and correctly the fluid contents thereof.

W. R. GREGG, *Acting Secretary of Agriculture.*

25782. Adulteration of confectionery. U. S. v. 99 Boxes of Szent Istvan Vedjegyu Gyongy Kaveszem. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 37112. Sample no. 30174-B.)

This confectionery contained alcohol.

On January 25, 1936, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 99 boxes of confectionery at New York, N. Y., alleging that the article had been shipped in interstate commerce, on or about November 14, 1935, by Steinbrucher Burgerliche Bierbrauerei & Sanct Stefan Nahrungsmittelwerke, from Budapest, Steinbrucher,

Hungary, to New York, N. Y., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Box) "Szent Istvan yedjegyu Gyongy Kaveszem Made in Hungary 0.90 dkg netto Kobanyal Polgari Serfozo es Szent Istvan Tapszermuvek R. T."

Adulteration of the article was charged under the allegation that it contained a spirituous liquor, namely, alcohol.

On February 17, 1936, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

25783. Adulteration and misbranding of preserves. U. S. v. 21 Cases and 25 Cases of Assorted Alleged Preserves. Default decrees of condemnation and destruction. (F. D. nos. 37114, 37115. Sample nos. 40029-B, 40030-B, 40032-B, 40033-B, 40034-B, 51156-B to 51160-B, incl.)

These cases involved interstate shipments of assorted so-called preserves. The blackberry, strawberry, peach, grape and damson flavors were insufficiently concentrated and contained added pectin; the blackberry, strawberry, peach, pineapple, and raspberry flavors contained added acid; and the quantity of the contents of the packages of each of the several products was less than that represented on the labels.

On January 27, 1936, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court two libels, one praying seizure and condemnation of 21 cases; and the other, 25 cases of assorted so-called fruit preserves, at Baltimore, Md., alleging respectively that the articles had been shipped in interstate commerce on or about October 24 and November 30, 1935, by the Old Virginia Packing Co., from Front Royal, Va., and that they were adulterated and misbranded in violation of the Food and Drugs Act.

The articles in the 21-case lot were labeled: "Queen's Taste' Brand Fancy Pure Preserves Peach [or "Grape", "Damson", "Blackberry", or "Strawberry"] Net Wt. 1 Lb. Packed for Frey Associated Houses, Baltimore, Md." The articles in the 25-case lot were labeled: "Old Virginia Brand Pure Blackberry [or "Pineapple", "Peach", "Strawberry", or "Raspberry"] Preserves Old Virginia Packing Co., Inc. Front Royal, Va., U. S. A. 2 Lbs. Net Wt."

The peach, blackberry, and strawberry flavors were alleged to be adulterated in that water, added pectin, and added acid had been mixed and packed with the articles so as to reduce, lower, or injuriously affect their quality; in that water, added pectin, and added acid had been substituted in part for the articles; and in that water, added pectin, and added acid had been mixed with the articles in a manner whereby inferiority was concealed. The grape and damson flavors were alleged to be adulterated in that water and added pectin had been mixed and packed with the articles so as to reduce, lower, or injuriously affect their quality; in that water and added pectin had been substituted in part for the articles; and in that water and added pectin had been mixed with the articles in a manner whereby inferiority was concealed. The pineapple and raspberry flavors were alleged to be adulterated in that added acid had been mixed and packed with the articles so as to reduce, lower, or injuriously affect their quality; in that added acid had been substituted in part for the articles; and in that added acid had been mixed with the articles in a manner whereby inferiority was concealed.

The articles were alleged to be misbranded in that the statements, "Pure Pineapple [or "Raspberry", "Blackberry", "Peach", or "Strawberry"] Preserves 2 Lbs. Net Wt.", with respect to the 25-case lot and the statements, "Pure Preserves Grape [or "Damson", "Peach", "Blackberry", or "Strawberry"] Net Wt 1 Lb.", with respect to the 21-case lot were false and misleading and tended to deceive and mislead the purchaser when applied to products of the composition indicated and to packages containing less than the amount declared. All of the several articles were alleged to be further misbranded in that they were imitations of and were offered for sale under the distinctive names of other articles, and in that they were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On March 5 and March 23, 1936, no claimant having appeared, decrees of condemnation were entered, and it was ordered that the products be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25784. Adulteration of frozen raspberries. U. S. v. 150 Barrels of Frozen Raspberries. Consent decree of condemnation. Product released under bond. (F. & D. no. 37117. Sample no. 55606-B.)

This case involved interstate shipments of frozen raspberries that were found to be worm- and insect-infested.

On January 29, 1936, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 150 barrels, more or less, of frozen raspberries at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about August 8, 1935, by the R. D. Bodle Co., from Tacoma, Wash., and charging that the article was adulterated in violation of the Food and Drugs Act. A portion of the article was labeled "Straight Cuthbert Raspberries * * *."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On June 10, 1936, the R. D. Bodle Co., claimant, admitting the allegations set forth in the libel, and consenting to a decree of condemnation, judgment of condemnation was entered and the article was released under bond for salvaging.

W. R. GREGG, *Acting Secretary of Agriculture.*

25785. Adulteration and misbranding of preserves. U. S. v. 249 Cases of Assorted Alleged Preserves. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. no. 37118. Sample no. 50549-B.)

This case involved an interstate shipment of assorted so-called preserves, of which so-called apricot preserves and so-called peach preserves were deficient in fruit, and the so-called peach preserves contained added water.

On January 24, 1936, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 249 cases of preserves, including so-called apricot preserves and so-called peach preserves, at Jersey City, N. J., alleging that the product has been shipped in interstate commerce on or about October 30, 1935, by the Sambo Dairy Products, Inc., from Brooklyn, N. Y., and that they were adulterated and misbranded in violation of the Food and Drugs Act. The product contained in jars was labeled: "Filigree Brand Pure Apricot [or "Peach"] Preserves Net Weight 1 Pound Packed for Hudson Wholesale Grocery Co. Jersey City, N. J."

The so-called apricot preserves were alleged to be adulterated (1) in that a substance deficient in fruit had been mixed and packed with the article so as to reduce, lower, or injuriously affect its quality, and (2) in that a substance deficient in fruit had been substituted for pure apricot preserves, which the article purported to be. The so-called peach preserves were alleged to be adulterated (1) in that a substance deficient in fruit and containing added water had been mixed and packed with the article so as to reduce, lower, or injuriously affect its quality, and (2) in that a substance deficient in fruit and containing added water had been substituted for pure peach preserves, which the article purported to be.

The so-called apricot preserves and the so-called peach preserves were alleged to be misbranded (1) in that the statements, "Pure Apricot Preserves" or "Pure Peach Preserves", as the case might be, borne on the labels, were false and misleading and tended to deceive and mislead the purchaser when applied respectively to imitation apricot or imitation peach preserves, and (2) in that the articles were, respectively, imitations of and offered for sale under the distinctive names of other articles.

On February 20, 1936, Sambo Products, Inc., claimant, having admitted the allegations of the libel and consented to a decree, judgment of condemnation was entered and it was ordered that the products be released under bond, conditioned that they be transferred to other containers and relabeled under the supervision of the Department of Agriculture.

W. R. GREGG, *Acting Secretary of Agriculture.*

25786. Misbranding of beer. U. S. v. 100 Cases and 62 Cases of Beer. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. no. 37124. Sample nos. 49339-B, 49340-B.)

This case involved an interstate shipment of beer which was found to contain less alcohol than the percentage thereof represented on the label.

On January 27, 1936, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the

district court a libel praying seizure and condemnation of 162 cases of beer at Kansas City, Mo., alleging that the article had been shipped in interstate commerce, on or about January 21, 1936, by the Fontenelle Brewing Co., from Omaha, Nebr., and that it was misbranded in violation of the Food and Drugs Act. A portion of the article was in 12-ounce bottles labeled, "Robin Hood 6 percent Beer." The remainder was in half-gallon bottles, labeled: "Robin Hood Picnic Beer 6 percent."

The article was alleged to be misbranded in that the statement "6 per cent", borne on the label, was false and misleading and tended to deceive and mislead purchasers of the article, since the article in the 12-ounce bottles contained an average of only 4.59 percent of alcohol by volume, and the article in the half-gallon bottles contained an average of only 4.64 percent of alcohol by volume.

On January 28, 1936, the Fontenelle Brewing Co., Omaha, Nebr., claimant, having admitted the allegations of the libel and consented to the entry of a decree of condemnation, judgment was entered ordering that the product be released under bond conditioned that it be relabeled under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

25787. Adulteration of frozen tullibeas. U. S. v. 30 Boxes of Frozen Tullibeas, et al. Consent decrees of condemnation. Product released under bond. (F. & D. nos. 37125, 37139, 37144. Sample nos. 48069-B, 48070-B, 48071-B.)

These cases involved shipments of frozen tullibeas that consisted in part of a filthy animal substance.

On January 27, 30, and 31, 1936, the United States attorney for the Eastern District of Wisconsin, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 115 boxes of frozen tullibeas, more or less, at Milwaukee, Wis., alleging that the article had been shipped in various shipments between the dates of December 5, 1935, and January 15, 1936, by the Keystone Fisheries, Inc., from Winnipeg, Manitoba, Canada, and that the article was adulterated in violation of the Food and Drugs Act. A portion of the article was labeled, "Product of Canada."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On May 25, 1936, the B. F. Griffin Co., Inc., claimant, admitted the allegations of the libels, judgments of condemnation were entered, and the article was released under bond to be exported by the claimant to the consignor in the country from which the article was shipped.

W. R. GREGG, *Acting Secretary of Agriculture.*

25788. Adulteration of pecans. U. S. v. 40,000 Pounds of Pecans. Default decree of condemnation and destruction. (F. & D. no. 37128. Sample no. 53033-B.)

This case involved unshelled pecans which were in part moldy, decomposed, and wormy.

On January 29, 1936, the United States attorney for the Middle District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 40,000 pounds of unshelled pecans at Albany, Ga., alleging that the article had been shipped in interstate commerce on or about January 10, 1936, by J. W. McConnell & Sons, from San Saba, Tex., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On February 27, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25789. Adulteration of Limburger cheese. U. S. v. 136 Packages of Limburger Cheese. Default decree of condemnation and destruction. (F. & D. no. 37181. Sample no. 53724-B.)

This case involved a shipment of cheese which contained a filthy animal substance, portions of insects.

On February 7, 1936, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 136 packages of a product labeled, "Swift's Brookfield Limburger Pasteurized Process Cheese",

at Tacoma, Wash., alleging that the article had been shipped in interstate commerce on or about January 13, 1936, by Swift & Co., from Portland, Oreg., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance, containing portions of insects.

On June 8, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25790. Adulteration and misbranding of relish, and misbranding of mayonnaise and salad dressing. U. S. v. 2 Cases of Relish, and other libels. (F. & D. nos. 37198, 37200, 37207, 37208. Sample nos. 53120-B, 53121-B, 53122-B, 53123-B.)

Examination of these products showed that they were short in volume, and that the relish was undergoing active decomposition.

On February 14, 1936, the United States attorney for the Western District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 85 jars of salad dressing at Lancaster, S. C. On or about February 24, 1936, libels were filed against two cases of relish at Cheraw, S. C., four cases of mayonnaise, and nine cases of salad dressing at Bennettsville, S. C. The libels alleged that the articles had been shipped in interstate commerce in part on or about November 18, 1935, and in part on or about January 13, 1936, by the S. & S. Mayonnaise Manufacturing Co., from Winston-Salem, N. C., that they were misbranded, and that the relish also was adulterated in violation of the Food and Drugs Act as amended. The articles were labeled: "Ladyette Brand Relish" [or "Mayonnaise" or "Dressing for Salad"] * * * Ladyette Mfg. Co. * * * Winston-Salem, N. C." The quantity of the contents was declared on the labels of the salad dressing "1 Quart", "1 Pint", or " $\frac{1}{2}$ Pint", and on the labels of the remaining products " $\frac{1}{2}$ Pint."

The relish was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

The products were alleged to be misbranded in that the statements on the labels, "1 Quart", "1 Pint", or " $\frac{1}{2}$ Pint", were false and misleading and tended to deceive and mislead the purchaser, and for the further reason that they were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was not correct.

On March 24 and 25, 1936, no claimant having appeared, judgments of condemnation were entered and it was ordered that the products be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25791. Misbranding of vanilla flavoring. U. S. v. 44 Dozen Bottles and 982 Bottles of Vanilla Flavoring. Default decrees of condemnation and destruction. (F. & D. nos. 37205, 37206. Sample nos. 52190-B, 54629-B.)

These cases involved an interstate shipment of so-called vanilla flavoring which was represented on the label to contain vanilla derivatives when it contained a small quantity of or no vanilla derivatives, and which was an imitation vanilla flavoring and was not plainly labeled as such. The bottles containing one lot of the article were short in volume.

On February 17, 1936, the United States attorneys for the Western District of New York and the Northern District of Ohio, acting upon reports by the Secretary of Agriculture, filed in the respective district courts libels praying seizure and condemnation of 982 bottles of so-called vanilla flavoring at Buffalo, N. Y., and 44 dozen bottles of the same product at Youngstown, Ohio, alleging that the article had been shipped in interstate commerce on or about August 22 and December 14, 1935, by the Pennex Products Co., from Pittsburgh, Pa., and that it was misbranded in violation of the Food and Drugs Act. The article was labeled: "Imitation Vanilla Flavoring Coumarin-Caramel Color Other Vanilla Derivatives." A portion was further labeled: "Red Top Brand 3 Fl. Ozs. * * * Pennex Products Co. Pittsburgh, Pa." The remainder was further labeled: "Thrifton Brand 8 Fl. Oz * * * Prepared for Danaby-Faxon Stores, Inc."

The article was alleged to be misbranded in that the statements, "Vanillin-Coumarin-Caramel Color Other Vanilla Derivatives", borne on the label, were false and misleading and tended to deceive and mislead the purchaser when applied to an article which contained little or no vanilla derivatives; and in

that the article was an imitation and was not plainly labeled as such, since the word "Imitation" was relatively inconspicuous when compared with the word "Vanilla." Misbranding was alleged with respect to the product contained in the smaller bottles for the further reason that the statement "3 Fl. Ozs." borne on the label, was false and misleading since the bottles contained less than 3 fluid ounces; and for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the statement made was incorrect.

On February 28 and April 2, 1936, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25792. Misbranding of canned shrimp. U. S. v. 15 Cases of Canned Shrimp. Default decree of condemnation and destruction. (F. & D. no. 37209. Sample no. 65801-B.)

This case involved canned shrimp which was labeled to convey the impression that it had been packed under Federal inspection. Examination showed that it was packed at a plant which was not under Federal inspection.

On February 15, 1936, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 cases of canned shrimp at Brockton, Mass., alleging that the article had been shipped in interstate commerce on or about September 6, 1935, by the Deer Island Fish & Oyster Co., from Mobile, Ala., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Wild Rose * * * Production Supervised by U. S. Food and Drug Administration. Wet Pack Shrimp. Packed for R. F. Owens Co. * * * Brockton, Mass."

The article was alleged to be misbranded in that the statement on the label, "Production Supervised by U. S. Food and Drug Administration", was false and misleading and tended to deceive and mislead the purchaser, since its production had not been supervised by the United States Food and Drug Administration.

On March 23, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25793. Adulteration of butter. U. S. v. 10 Tubs of Butter. Decree of condemnation. Product released under bond to be reworked. (F. & D. no. 37239. Sample no. 65590-B.)

This case involved a shipment of butter that contained less than 80 percent of milk fat.

On January 24, 1936, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 tubs of butter at Somerville, Mass., consigned about January 15, 1936, alleging that the article had been shipped in interstate commerce by the Pipestone Produce Co., from Pipestone, Minn., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as provided by the act of Congress of March 4, 1923.

On January 30, 1936, the Pipestone Produce Co., having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under cash bond, conditioned that it be reworked so that it contain at least 80 percent of milk fat.

W. R. GREGG, *Acting Secretary of Agriculture.*

25794. Adulteration of butter. U. S. v. 11 Cubes of Butter. Consent decree of condemnation. Product released under bond. (F. & D. no. 37240. Sample no. 40871-B.)

This case involved butter which contained less than 80 percent by weight of milk fat.

On December 20, 1935, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 11 cubes of butter at Seattle, Wash., consigned by the Huggins Dairy, Lewiston, Idaho, alleging that the article had been shipped in interstate commerce on or about

December 16, 1935, from the State of Idaho into the State of Washington, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as provided by the act of Congress of March 4, 1923.

On January 18, 1936, B. F. Huggins, claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be brought up to the legal standard under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

25795. Adulteration of butter. U. S. v. 20 Cubes of Butter. Consent decree of condemnation. Product released under bond. (F. & D. no. 37241. Sample no. 40872-B.)

This case involved a shipment of butter that contained less than 80 percent by weight of milk fat.

On December 20, 1935, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 20 cubes of butter at Seattle, Wash., consigned by the Northern Creamery Co., Great Falls, Mont., alleging that the article had been shipped in interstate commerce on or about December 13, 1935, from the State of Montana into the State of Washington, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as provided by the act of Congress of March 4, 1923.

On January 18, 1936, the Northern Creamery Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be brought up to the legal standard under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

25796. Adulteration and misbranding of butter. U. S. v. 14 Boxes of Butter. Decree of condemnation. Product released under bond to be reworked. (F. & D. no. 37242. Sample no. 65598-B.)

This case involved a shipment of butter that contained less than 80 percent of milk fat.

On February 7, 1936, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 14 boxes of butter at Springfield, Mass., consigned about January 29, 1936, alleging that the article had been shipped in interstate commerce by the R. E. Cobb Co., from Tracy, Minn., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as required by the act of Congress of March 4, 1923.

Misbranding was alleged for the reason that the article was an imitation of and was offered for sale under the distinctive name of another article, butter.

On March 23, 1936, the R. E. Cobb Co. having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be reworked so that it contain at least 80 percent of milk fat.

W. R. GREGG, *Acting Secretary of Agriculture.*

25797. Adulteration of butter. U. S. v. 26½ Pounds of Butter. Default decree of condemnation and destruction. (F. & D. no. 37244. Sample no. 49433-B.)

This case involved a shipment of butter, samples of which were found to be below the legal standard of 80 percent milk fat.

On December 14, 1935, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 26½ pounds of

butter at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about December 11, 1935, by Jay Miller, from Louisa, Ky., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as provided by law.

On January 9, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25798. Adulteration of apples. U. S. v. 96 Baskets of Apples. Default decree of condemnation and destruction. (F. & D. no. 37245. Sample no. 55170-B.)

This case involved a shipment of apples that were contaminated with arsenic and lead.

On December 3, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 96 baskets of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about September 22, 1935, by Lipsitz & Cohen, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "E. O. Edwards Sodus Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On February 1, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25799. Adulteration of apples. U. S. v. 338 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 37247. Sample no. 54804-B.)

This case involved a shipment of apples that were contaminated with arsenic and lead.

On December 11, 1935, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 338 bushels of apples at South Bend, Ind., alleging that the article had been shipped in interstate commerce on or about October 23, 1935, by Harvey Hendricks, from Sodus, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Pearl Polind Sodus, Mich."

The apples were alleged to be adulterated in that they contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered them harmful to health.

On January 24, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25800. Adulteration of apples. U. S. v. 50 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. no. 37248. Sample no. 55078-B.)

This case involved a shipment of apples that were contaminated with arsenic and lead.

On November 14, 1935, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 50 bushels of apples at Hammond, Ind., alleging that the article had been shipped in interstate commerce on or about November 4, 1935, by Paul Pewowar, from Hartford, Mich., and charging adulteration in violation of the Food and Drugs Act.

The apples were alleged to be adulterated in that they contained added poisonous and deleterious ingredients, arsenic and lead, which might have rendered them harmful to health.

On January 20, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

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